upon the rights of the members. If the majority of the members apply, the only thing for consideration is whether that application is *bona fide* and whether it is signed by the majority of the members of the family. If it is *bona fide* and if it is signed by the majority of the members of the family then automatically exemption should be granted. So, I move that these words should be deleted.

The motion fell through for want of a seconder.

The question whether Clause 2 stands part of the Bill was put and carried.

Clause 2 was added to the Bill.

Clauses 3 and 4 and the Schedule.

The question whether clauses 3, 4, and the schedule stand part of the Bill was put and carried.

Clauses 3 and 4 and the Schedule were added to the Bill.

Preamble and Title.

The question that the preamble and title stand part of the Bill was put and carried.

The preamble and the title were added to the Bill.

Mr. P.R. Godavarma Raja: Sir, I move that the Bill be passed.

Mr. Kottur Kunjukrishna Pillai: I second it.

The motion was put and carried.

The Bill was passed.

THE TRAVANCORE CHILD MARRIAGE RESTRAINT BILL.

[Discussion on this Bill which had been postponed at the meeting of the Council on the 29th January 1941, was then resumed.]

Mr. Kottur Kunjukrishna Pillai: Sir, with regard to this Bill there are a large number of amendments proposed to be moved. Therefore I propose that to get on with the business of the House more expeditiously a time limit may be prescribed for speeches.

President: Under the usual parliamentary procedure no time limit is fixed for legislative business. But by a vote o the House time limit may be fixed as a self-denying ordinance.

The question whether a time limit should be fixed was pu and carried.

President: 15 minutes is allotted to each speaker.

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Mr. T. V. Ramakrishna Aiyar (*Co-opted*): Sir, during the last session of the Council my friend Mr. G. Narayana Aiyar raised a point of order whether this Bill which was once considered and rejected by this House could be taken up again and a ruling was given by the Chair.

President: What is the point of order? I have already given a ruling on the matter.

Mr. T. V. Ramakrishna Aiyar: Sir, that ruling does not authorise the re-introduction of this Bill in this Council.

President: I have already given a ruling in the matter. I rule that the point of order raised is out of order.

Mr. M. Govindan (*Nominated*): Sir, last time I moved the Bill for consideration in this House with a speech and the motion was seconded.

Srimathi R. Ranganayaki (*Co-opted*): Sir, let me at the outset express my gratitude to the Government for nominating me as a member of this House. Long before this Bill was brought for the first time before this body, even when the measure was being discussed in the lower chamber, there were protests from the women of my community against their being represented in the legislature by those who were opposed not only in their views but in their sex as well. Unfortunately their cries had no response at the time from the authorities. The absence of a Narayani Amma had led even the honourable members of this House to honestly believe that it would be unfair to alter a custom against the alleged sentiments of a particular minority community.

The sponsors of this Bill, however, have been enterprising enough to bring it before this House for reconsideration, and the Government too, probably realising their oversight, have chosen me for shouldering the uphill task of reconverting the honourable members of this House to their original view in favour of this measure. I thank the Government, Sir, for the honour that they have bestowed upon me. But the pity of it is that those Brahmin friends whom I am to oppose today are some of the sincerest patrons and well-wishers of my social welfare work.

Before proceeding to tender my humble views, may I be permitted, Sir, to request the Government to clarify their position with regard to this Bill?

President: Order, order. The honourable member cannot possibly expect Government to give any opinion on this matter. The position of Government in all matters of social legislation is that they would remain neutral. They will not take one side or

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the other in the matter of voting. Individual opinion of specific members of the Government is a very different matter. Speaking for myself individually I have held that this measure is extremely necessary subject to certain qualifications. But that is a matter which will not affect Government in dealing with it as a social reform measure. And a social reform measure will depend for its success upon the ability and the persuasiveness of the members interested in the measure to bring the others round to their point of view and they cannot expect Government to take one side or the other in the matter of voting.

Srimathi R. Ranganayaki : I make this request because it is a compromise measure and the Legal Remembrancer, it seems, had a hand in drafting the last and the most important clause. It contains enough loopholes for all conscientious objectors to get themselves exempted.

President : Order, order. The honourable member may excuse me for interrupting again. So far as the compromise measure is concerned, the Legal Remembrancer acted as a lawyer and not as representing the Government.

Srimathi R. Ranganayaki : Our Muslim friends had rightly understood the spirit behind that clause and remained neutral last time. The Bill entrusts the Government with certain powers which they have to use judiciously. I believe that the Government approved of the compromise and thereby agreed to shoulder the responsibility. Is it not therefore the moral duty of the Government to support this measure? Whether they exercise their votes or not, they ought to give their moral support at least upholding the spirit behind the compromise. Will they do so?

President: After having emphasised the moral duty, the honourable member may proceed with the merits.

Srimathi. R. Ranganayaki . எனது கண்பர்களாகிய சிலமெம்பர்கள் என்னை தாய் பாஷையில் பேசவேண்டுமென்று ஜாடை செய்கிறார்கள் நான் அவர்களைத் திருப்தி செய்யவிட்டால் சிலருடைய வோட்டுகள் போய்விடுமோ என்று பயமாயிருக்கிறது. ஆகையால தமிழில் பேசுவதற்கு அனுமதி அளிக்கலாமோ ?

President . தமிழிலும் பேசலாம், இங்கிலீஷிலும் பேசலாம் இந்த இரண்டில் எதில் வேண்டுமானாலும் பேசலாம். (The honourable member can speak in Tamil or English)

Srimathi R. Ranganayaki . Sir, நான் இந்தப்பில்லை (Child Marriage Restraint Bill) ஆதரிப்பது இந்நாட்டுசந்தானங்களின் சார்பாகவே தான். 1926 முதலே இவ்விதமான இயக்கத்தை நான் ஆரம்பித்து பால்யவிவாகதொடுமைகளைப்பற்றி பல நாடகங்களை எழுதச்செய்து, அவைகளை ஹிந்துவனிதா சங்கம், ஸ்திரீ சம்ரக்ஷண சபா, ஜீவகாருண்ய சபா முதலான ஸ்தாபனங்களின் ஆதரவின் கீழ் அபிநயிக்கச்செய்து;

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இந்நாட்டிலுள்ள ஆயிரக்கணக்கான பிராம்மண ஸ்திரிகளுடைய கையெழுத்துக்களடங்கிய மனுக்களையும் கவர்மெண்டுக்கும் அனுப்பி, பால்ய விவாஹ நிரோதனச் சட்டமியற்ற வேண்டுமென்றும் வாதாடியிருக்கிறேன். இன்று நேற்று திடீர் என்று இந்தப் பிரஸ்தாவத்தில் இறங்கியவனல்ல. இரண்டு வருஷங்களுக்கு முன்புகூட இந்தப்பில்லை ஆதரித்து இந்தத் திருவனந்தபுரத்திலேயே மாபெரு கூட்டம் கூடி பிரமேயங்களை கவர்மெண்டுக்கு அனுப்பியதுண்டு.

இந்த பால்ய விவாஹமென்பது பிராம்மண சமுதாயத்தினிடையில் 12 வயதுக்கு முன்பாக கடத்துவதும், ருதுசாந்தி ருதுவானபின்பு நடத்துவதுமான வழக்கமென்று வாதிக்கப்பட்டிருக்கிறது. ஆனால் இவ்விஷயத்தில் ஒரு ரகசியமிருக்கிறது. விவாகமும், ருதுசாந்தியும் வெவ்வேறு சடங்குகளே என்றதை ஏற்றுக்கொள்கிறேன். ஆனால் ஸ்திரி புருஷ சேர்க்கை இந்த இரண்டையும் ஆஸ்ரயித்திருப்பதில்லை என்பதுதான் அந்த ரகசியம். ஒரு பத்து வயது பெண்ணின் மாமியார் திடீரென்று விதவையாகவோ, நாத்தனர் பிரசவத்திற்கென்று தன் தாய் வீடுவந்து சேரவோ, அல்லது அப்பெண்ணின் வாலிபக் கணவன் கெட்டவழிகளில் திரிகிறதாக தகவல் கிடைக்கவோ செய்யுமானால், அப்பத்து பதினொன்று வயதாகிய யுவதி உடனே ருதுவாகி சாந்திக்கும் நிலையாகிறாள் இது சாரதாசட்டம் வருவதற்கு முன் இந்தியா முழுவதும் நடந்துவந்த ரகசியம். ஆனால் இப்பொழுது, இந்த சாரதா சட்டம் வந்தபின்பு உலகமே கவிந்துவிட்டது ; விவாகமாகாத பெண்கள் 19 அல்லது 20 வயதானாலும் ருதுவாக மறைத்துவிடுகிறார்கள் இவ்வளவு ராஜபக்தியும், சட்டத்திற்குள்ளடங்கியுமுள்ள மாதாயிருக்கிறாள் எங்கள் பிராம்மண சமூகத்தின் பிரத்யேக இயற்கைத் தாய்!

ஆனால் இப்படிப்பட்ட சமுதாயத்திலுள்ள 12 முதல் 16 வயதுவரையிலுள்ள ருதுசாந்தியான பெண்கள் தான் ஏற்றுமானூர் வைத்தீசுவரன்கோவில், சங்கரநயினார்கோயில் முதலான இடங்களில் சென்று பேய்களை ஓழிக்கவென்று பஜனமிருப்பது இந்தப் பேய்கள்—

Mr. V. Sankara Menon : ഏത ജാതിയിൽപെട്ട കുട്ടികൾക്കാണ ഈ പേടകളെല്ലാം പിടിപെടുന്നത്?

Srimathi R. Ranganayaki : பிராமணர்களுக்கு இந்தப் "பேய்கள்" என் 12 முதல் 16 வயதிலுள்ள பெண்களைப் பிடித்துக்கொள்வதென்று நான் ஒரு பாட்டியம்மாவை விசாரித்ததில்

"அது தெரியாதோடீ? தொட்டிலே ஓட்டினபேய் ஜன்மத்திலேன் போகுமோ?" என்று விடையளித்தாள்.

அதற்குப் பொருளைக் கேட்டவுடன் அவள்தான் சொல்லிக்கொடுத்தாள் ரகஸ்யத்தை. ருதுவாகி 16 நாட்களுக்குள் ருது சாந்தி நடத்திலால் உடனே பல பெண்களுக்குப் "பேய்" பிடிப்பது இயற்கையேதானாம்! நான் உடனே சென்று இதைப்பற்றி டாக்டர்களிடம் விசாரித்ததில் அவர்களும் அதை ஒப்புக்கொண்டார்கள். ஆனால் அந்தப் "பேயை" Hysteria என்று தர்ஜுமை செய்து தந்தார்கள்.

இந்தக் கொடுமையை மாற்றவேண்டுமானால், ருது சாந்தி வயதை சாஸ்த்ரம் நிர்ணயித்து ஒரு மசோதாவைக் கொண்டுவரலாகாதா, இந்த விவாக வயது மசோதா என்னத்திற்கென்று கேட்கிறார்கள். ஆனால் விவாகத்திற்கும் ருதுசாந்திக்குமிடையில் எவ்வளவு சடங்குகள் நடக்கிடையில் இருக்கிறதென்றும், அவைகளிலெல்லாம் பெண்ணும் மாப்பிள்

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னையும் எவ்வளவு தடவை சந்திக்க வசதிகள் உண்டென்றும், அச்சமய ங்களில் எல்லாம் அவர்களுக்கு ஒரு C. I. D. வைக்கமுடியுமாவென்றும் நான் கேட்கிறேன். இதில் மீறி நடப்பவரை சிட்சிக்கச் சட்டமிடும்போ தே அச்சட்டத்தை உயிரில்லாமலாக்க வேண்டுமென்று நூற்றுக்கணக் கான (Amendments) திருத்தங்களையும் கொண்டுவருவார்கள் நமது ஆ ஸ்திகர்களான நண்பர்கள்!

நான் ஒரு கால்நடைகள் உற்பத்திசெய்யும் கோவாப்பரேட்டிவ் சங் கத்தின் டைரக்டர் நமது கவர்மெண்டு கால்நடைவிவசாய விதக்தர் 3 வயதுக்குக்குறைந்த காளைகளை பசுவினிடம் சேர்க்கக் கூடாதென்று எச் சரிக்கை செய்கிறார். இரண்டு வயதானலும் கன்று ஜனிக்கலாம் ஆனால் அவைகள் அற்பாயுளாகப் போய்விடும்!

எங்களுடைய ஸ்திரி தர்மாலயத்தில் எங்கள் குழந்தைகள் ஒரு சி றிய காய்கறித்தோட்டமிட்டிருக்கிறார்கள். குடமிளகாய், டொமாட் டோ, ஸின்னியாபுஷ்பம் முதலியன பயிர்செய்தார்கள். இவைகளில் சில சிறிது நாட்கள்வரை மடமடவென்று வளர்ந்து, முதலாவது காய்க ளையும் புஷ்பங்களையும் தந்தபின்பு திடீரென்று வாடிவிட்டன. புழு வொன்றும் இல்லையென்று ஆராய்ச்சியிலிருந்தேன். திருவி இன்ஸ்பெக் டரை அழைத்துக் காண்பித்தேன். அவர் உடனே என்னிடம் இதன் காரணம் விளையாத வித்திலிருந்து முளைத்ததென்று தெரிவித்தார். அவர் கூறிய கொள்கையை உடன்தானே நான் ஒரு விளையாத மரத்தனிலுள்ள வித்துக்களைப்போட்டு பரீட்சித்துப் பார்த்தேன். அவை யாவும் முளை த்தன. ஆனால் ஒன்றுவிடாமல் யாவும் ஆறு இஞ்சுகள் வளர்ந்தபின்வா டிப்போயின.

இவைகளினின்றும் நாம் உணரவேண்டும் தத்துவம் யாது?

சென்ற தடவை நமது கோட்டயம் நண்பர் பிராமணர்களுக்கு ஆ லோக்கியத்திலோ, கல்வியிலோ யாதொரு குறைவுமில்லையே யென்று தோள்தட்டி வாதித்தார். அவரிடம் நான் கேட்கிறேன். "குழந்தை களுக்குள்ள கட்டி" எந்த சமுதாயத்தில் ஜாஸ்தியிருக்கிறது?

Mr. M. K. Ananthasiva Aiyar (*Nominated*) வயதானவ ர்களுக்கும் பெரிய குழந்தைகளுக்கும் கட்டிகள் வருகிறது தெரியுமா?

Srimathi R. Ranganayaki. இருக்கலாம். 14 வயதுக்குக்கீழ் ள்ளபிரசவத்தில் ஆயுதங்கள் இட்டு எடுப்பதால் சிசுமரணங்களும், கர்ப்ப ணி மரணங்களும் எந்த சமுதாயத்தில் ஜாஸ்தி? ஏழாம் கிளாஸ்க்குமேல் கல்வி கற்காமல் வீட்டில் குந்தவைத்திருக்கும் தொழில் இல்லாதபெண் கள் எந்த சமுதாயத்திலிருக்கின்றனர்? பிராம்மண பெண்களில் இது வரையில் மூன்று பி. எ. க்களுக்குமேல் உற்பத்தியான துண்டா? அந்த மூவர்களும் விவாஹமானவர்களா? எந்த சமுதாயித்தில் 16 க்குமேல் 45 க்குள் மாதர்களுடைய மரணம் ஜாஸ்தியாயிருப்பது? விதவைகளை விட விதவர்கள் ஜாஸ்தியாயிருக்கும் சமுதாயம் எது? 50 வயதுக்கு மேற்பட்ட ஸ்திரிகளுள்ள குடும்பங்களை அருந்தலாய்விட்டதே இந்த சமுதாயத்தில்! இப்படி அற்பாயுளாக மரணமடைந்த பெண்களைக்கொ ண்டாடுவதற்காக "சுபங்கிலியப் பிரார்த்தனை" யென்ற சடங்கு நடத்து கிறார்கள். இப்படி தொட்டில் முதல் சுடுகாடு வரையிலும் இடையூறு கள் நிறைந்த இப்பெண்களுடைய வளப்பமோ யென்றுல்வெச்சூர் பசு க்கள் தான்! ரூபாமா, கறுத்து மெலிந்த மத்திய ஆப்பிரிக்கா வர்க்கத்

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தாரைப்போல்! ஆஹாராதிகளிலும் சுகாதாரத்திலும் குறையின்றி வாழும்போதே இந்த நிலையானால், மற்ற சமுதாயங்களைப்போல் இவர்கள் அரை உணவும், சேற்றில் வாழ்வும் இருக்குமானால் என்ன கதியாயிருப்பார்கள்? இப்படிப்பட்ட சமுதாயத்தைக் கண்டு மற்றவர்கள் மகிழ்ச்சியும், பொறுமையும் படுகிறார்கள்?

ஒரு சமுதாயத்தைப் பாதிக்கிற ஒரு வழக்கத்தை மாற்ற அண்ணிய சமுதாயப் பிரதிநிதிகளுக்கு என்ன அவகாசமென்று கேட்கிறார்கள்? ஒரு சமுதாயத்தினுடைய பாரம்பரியவியாதிகள் அண்ணிய சமுதாயங்களிலும் கலப்பு விவாஹ மூலம் பரவாதோ? கலப்பு விவாஹத்தால் பிறக்கும் சந்தானங்களையும் பிராமண சமுதாயம் ஏற்றுக்கொள்ளுமானாலும் போகட்டுமென்று வைத்துக்கொள்ளலாம். அதுவும் செய்கிறதில்லை.

ஆனாலும் சர்க்காரால் அவர்களை ஒழித்துவிட முடியாது. தாய்தந்தையருக்கு வேண்டாத கர்ப்பக்கருவை பாதுகாக்கும் சர்க்கார் மிருக பலியைக்கூடத் தடைசெய்தபர்த்திய சர்க்கார், சிசு சம்ஹாரத்துக்கு சமமான இதை மாத்திரம் அனுமதிக்கவா?

சமுதாயத்தினுடைய அபிப்பிராயத்துக்கு மாறுக சட்டமியற்றக் கூடாதாம்!

President: இந்த சட்டம் பிராமணருக்கு மாத்திரந்தானே? 15 நிமிஷம் பேச்சில் 10 நிமிஷம் பிராமணர்களைப் பற்றியே சொன்னீர்களே! சரி மேல் நடக்கட்டும்

Srimathi R. Ranganayaki: தேவதாசிகளிடம் கேட்டுக்கொண்டுதான் விபசார நிரோத மசோதா வருகிறதோ? குடிகாரர்களிடம் கேட்டுக்கொண்டுதான் மத்திலக்குச் சட்டம் வரவேண்டுமோ? திருவிதாங்கூரிலுள்ள 28 சமூஹங்களும் தம் தம் விதவைகளை முன்னிறுத்திக் கொண்டு சர்க்காரிடம் தூதுசென்று தமகு விதவா விவாஹம் வேண்டுமென்று கேட்டார்களோ இரண்டுவருஷங்களுக்கு முன் விதவாவிவாஹ மசோதா வருவதற்கு?

அதுதான் போகட்டும், ஐயர், வாஸ்தவத்தில் பிராம்மண சமுதாயம் இந்த மசோதாவுக்கு விரோதமா? 28 சமூஹங்களும் எதிர்கின்றனவாம் இந்த சமூஹங்களைப் பற்றி உங்களுக்கும் தெரியுமா? அவைகள் ஊர் சொத்துக்களையும் சாஸ்தாப்பிரீதிகளையும் பங்குனி உத்திரங்களையும் சிறப்புக்களையும் நடத்திக்கொண்டுபோகும் டிரஸ்டுகளேயன்றி சமுதாயச் சீர்திருத்தங்களைப்பற்றி அபிப்பிராயம் புறப்படுவிக்கும் ஸ்தாபனங்களல்ல. பாலாய் சமூஹம் என்பது ஒரு குடும்பத்தைச்சேர்ந்த ஒரு டிரஸ்டென்று வாதம் நடக்கிறது. இந்த வடதிருவிதாங்கூர் சமூஹங்களிருக்கும் நகரங்களிலும் கிராமங்களிலுமுள்ள பிராம்மண ஜனத்தொகை என்ன? அவைகளின் கணக்குப்பிள்ளைக்குள்ள சம்பளமோ மூன்று ரூபாய் முதல் ஏழு ரூபாய் வரையிலுமுள்ள அமோகமானவர்கள்! இவர்கள்பேரிலுள்ள கிராமப் பணபகரணக்கேசுகளை கேட்கவேண்டியதில்லை. இப்படிப்பட்ட சமூஹங்களா பிராமண சமுதாயத்தைப் பிரதிநிதிகரிப்பது?

இதற்கு நேர் மாறுக நான் இந்த சபையில் சமர்ப்பித்திருக்கும் மனுக்களில் கையொப்பமிட்டிருக்கும் பிராமணர்கள் எந்த கிராமவாசி

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கள் ? பெரிய சாலை அக்ரஹாரம், புத்தன்தெருவுகள், திருவனந்தபுரம் கோட்டைக்குள், இவைகளல்லவா ? இவைகளைவிட ஜனசங்கியையுடைய இடங்களுண்டா ? இவைகளிலிருந்து என்ன தெரிகிறது ? இதுவுமன்றி இதோ நான் மேசைமீதிட்டிருக்கும் பெரியோரான சென்னமகான்களுடையவும், பிராம்மண சேதாக்களுடையவும் கடிதங்களும், சந்தேகங்களும் என்ன குறிப்பிடுகின்றன ? இந்த மசோதாவை ஆதரிக்கவில்லையா ? ஸர். பி. எஸ். சிவஸ்வாமி அய்யர், ஸ்ரீ டி. ஆர். வெங்கிட ராம ஸாஸ்திரி, மஹாகனம் பொருந்திய வி. எஸ். ஸ்ரீனிவாச சாஸ்திரியார், திவான் பஹதூர் வி. பாஷ்யம் அய்யங்கார் இவர்களைவிட வட திருவிதாங்கூர் சமூகத்து மந்திர தர்பகர்த்தாக்கள் மஹாப் பெரியோர்களாவார்களோ ?

ஆகவே, நான் இந்த மசோதாவை ஆதரிப்பதுடன், இந்த சபையும் எகமனதுடன் இதோ காண்கிற இந்த வழை குழந்தைகளின் நன்மையை உத்தேசித்தும், வருங்கால சந்தானங்களை உத்தேசித்தும், இதனை ஆதரித்தே வோட்டு செய்யவும் தாழ்மையுடன் வேண்டிக்கொள்கிறேன்.

Mr. T. V. Ramakrishna Aiyar: Sir, I regret I am unable to reconcile myself to the provisions of the Bill before us. I am a raw recruit to the field of legislation but yet I feel I am sufficiently old to fully realise the implications of the provisions as they affect the members of the community to which I belong and against which the Bill is mostly directed. Sir, I consider it the greatest misfortune of my community that the Bill was sponsored in the Lower House by Srimathy Narayani Amma and in this House by Mr. Govindan, both utter strangers to the community which this mostly affects and who are both completely ignorant of the customs and religious usages prevailing in the Brahmin community. No Brahmin has up to this date come forward with a request for reform in this direction or expressed his inability to father a Bill of the kind. On the other hand, every Brahmin to whichever sub-sect he may belong has stoutly opposed the measure. It is the most conclusive proof that the Bill is not wanted by the community most affected by it but is being forced down their throats by strangers. It will be noted that every one of the social laws passed was introduced by the members of the communities concerned and not by strangers. Take for instance the Kshatriya and the Kammala Bills. Srimathy Narayani Ammal is a Vellala and Mr. Govindan is an Ezhava and in both these communities, the system of child marrage is not prevalent. I desire to know what right the sponsors of the Bill have to legislate for us except as members of the two Houses of legislature ? Will any one member in this House like the idea of my bringing in a Bill affecting the Nair, the Ezhava or the Christian community? I

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Mr. T. V. Ramakrishna Iyer]

ask the question whether a greater calamity can befall the community? Is this course fair and is it in consonance with the most accepted principles of legislation? A minority community is being attempted to be trampled under foot. The Brahmin community cannot certainly be accused of intellectual bankruptcy and the community is not wanting in leaders of ripe experience, deep culture and broad outlook. If the evils complained of were real, the Bill would have passed into the statute book decades ago. It has been said that legislation is mostly induced by the majority interest represented or in matters of social legislation by the private occupations of the legislators. I am unable to see in this Bill either of the two principles mentioned.

Sir, over and over again, at least some members of the Lower House had been crying aloud that the Bill was not necessary for a small State like Travancore, much less for the minority communities and more especially for the Brahmin community which is a microscopic community I attempted to get the latest figures from the Census Commissioner but unfortunately the figures wanted are not yet ready. I am forced to rely on the figures of the previous Census—Here is the portion relevant to the subject.

> "In the age period 0-5, there is none married in Travancore, whereas in India six males and twelve females per thousand are married. In the next period 5-10, only one in 1,000 boys and eight in 1,000 girls are married in Travancore against 34 boys and 93 girls in India. It is noteworthy that out of eight girls in 1,000 that are married in Travancore, Hindus and Muslims have the smallest number, *viz.*, seven in 1,000, while the Christians have nine; but the insignificance of the problem of child marriage in this State will be brought out more clearly by the actual figures. Out of a total population of over 2½ million females, of whom over a million are married, there are only 2,484 married girls at the age-period 5-10. Of these, the Hindus number 1,362, Christians 942, Muslims 177 and primitive tribes 3. Of the Hindus, the highest proportions are found among the Brahmins and the Kudumis, among whom pre-puberty marriage of girls is compulsory. The point that deserves special mention is that the Christians show a higher proportion of married girls between the ages of 5 to 10 than the Hindu taken as a whole, though the proportion is naturally lower than that of the castes like the Brahmins and the Kudumis who are bound to marry their girls before they attain puberty".....

the Census Commissioner continues.

> "The conclusions to which the figures discussed above lead are that child marriage is much rarer in Travancore than in India, that comparatively it is more common among the primitive tribes than among the civilised communities, that of the latter the Christians are more addicted to the practice than the Muslims or the

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Hindus, and that it is least prevalent among the Hindus taken as a whole. Of the different castes of the Hindus, the few among whom prepuberty marriage of girls is compulsory, no doubt marry a larger proportion of their children; but they form such a small percentage of the total Hindu population that their practice does not materially affect the general position."

"It is interesting to know that child marriage is decreasing from census to census."

"The Sarda Act of British India prescribing the age limit for the marriage of girls at 14 and for boys at 18 is not in force in Travancore. There is no general demand from the people as yet for the enactment of a similar law in this State nor does there seem to be any urgent necessity for it. We have seen that child marriage is far less common in this State than in India and that it is declining with the spread of education."

Even among the Brahmins, I cannot see the evils of child marriage as portrayed by the mover in the other House. It has to be noted the Census Commissioner was the late lamented Dr. Kunjan Pillai, a Nair and this alone should influence my Nair friends to decide their vote. A social reform like this must be beneficial to the State and must be in the interest of the State's subjects. The remarks of the Census Commissioner show conclusively that the present Bill does not satisfy any of these requirements. Here is what Mr. S. Satyamurthi, a recognised leader of Indian public opinion, says.

"I am not one of those who opine that secular legislatures shall undertake no social legislation. But I do claim that secular legislatures must walk very warily in respect of social legislation. Legislation opposed to the deepest religious and social feelings of the people is bound to prove *brutum fulmen*. Moreover, it will seriously affect the prestige of the legislature. From that point of view, any legislation which compels people to commit what they sincerely and on reasonable grounds believe to be a gross sin will be resented throughout the country, and will in practice be disobeyed until the law is laughed out of the statute book. I maintain that South Indian Brahmins, for whom alone I speak in this article, have reasonable grounds to, and do sincerely believe according to the Parasara Smrithi which is the supreme authority for the Kali Yuga for them, that they must marry their girls on their attaining their twelfth year, and that otherwise they commit a very heinous sin. I then ask what moral or other right any secular legislature has to tell these people that they must choose between committing a sin and going to jail. This is an intolerable dilemma, which no responsible legislature ought to place before any section of the people for whom it professes to legislate. The cheap sneer that Brahmins generally do not observe the injunctions of Parasara nowadays is no answer. Can a legislature tell those who want to observe their religious injunctions, that they shall not observe them, except on pain of going to prison?"

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[Mr. T. V. Ramakrishna Aiyar.]

Any number of such authoritative opinions may be quoted.

She might have known the truth and would not have introduced the Bill at all if she had been born a Brahmin woman or at least made the necessary full enquiries among members of that community. The evils graphically described are only three, *viz.*, unhealthy children, child widows and over-population. No census has so far been taken of the relative health of children in the different communities nor even in schools and colleges and I cannot possibly understand how it can be said, in the absence of figures, that the Brahmin children alone suffer from ill health more than others as a result of child marriage. Visibly we know that their standard of intelligence and their fitness for any and every work under the sun are still kept upon a high level in spite of the rapid advance of the other communities. What then constitutes ill health, I cannot understand. I contend that a high degree of intelligence is incompatible generally with rough physical labour which, I venture to think, is not after all a conclusive test of good health or the *summum bonum* of human existence.

In fact I attribute the precocity of the intellect in the community to the sanctity of the marriage laws which do not allow of any contamination as a necessary consequence of child marriage. Child marriage has its own bright side which cannot even be imagined by others born and trained under other systems of marriage. My friend, the mover, has quoted a few sentences from the writings of some doctors in support of the Bill. I may inform him that volumes have been written and may yet be written about the superior advantages of child marriage. As the proverb goes 'doctors differ' and it is certainly very easy to find any number of eminent doctors advocating child marriage. A close examination of the marriage laws in force in the different countries of the world where individual liberty of action and freedom of choice are the determining factors should alone convince us of the benefits of child marriage in ensuring the purity of the home and the happiness of marriage. A child born healthy may very soon become unhealthy and *vice versa*. As our doctor friends will endorse, health mostly depends on bringing up of the children *i. e.*, by artificial means and the Brahmins are the most enthusiastic in the bringing up of children and do not in the least stint any expenditure on this account as, from a religious point of view, children have a definite place in the scheme of human existence. The other day I consulted a retired Durbar Physician of this State and he was emphatic and in fact ever-enthusiastic of the truth of the above principles. What then does the charge of ill-health mean? It

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means that it is a myth, an exploded myth, which the sponsors of Bills of the kind often resort to to suit their purpose. I may not be quite justified in inferring that it is an attempt to bring the Brahmin down. It may be a case of "Thou art yoked to a bull and the heaviness of its weight will bring thee down." If full statistics had been given, I can appreciate any argument built on such figures. As an academic argument built on imagination, it is absolutely of no use in such a serious matter as a legislative enactment.

The next argument relates to the number of child widows in the community. Fortunately, the system of child marriage is not in force among the major communities and the number of child widows in them is nil. I seriously ask the question whether there are no *young* widows even in those communities? Has any percentage been taken? Have all marriages performed after the girls attain 14 years of age been an ever-lasting union? Has not death been using its icy hands ruthlessly on all alike? There are communities in which even if the marriages are performed after the girls attain 15 years, no marriage is allowed.

Mr. M. K. Ananthasiva Aiyar: Cannot that difficulty be avoided if an enactment is passed concerning widows?

Mr. T. V. Ramakrishna Aiyar: That is a matter for the legislature with which I have no concern.

Has any census been taken of the number of widows in those communities? The population in those communities will considerably be more than that in the Brahmin community and yet none of our legislative friends have brought forward a Bill to find a new heaven for those widows. The explanation is very easy. There is no similar enactment anywhere in India. Sir, after all, the Brahmin community forms only a microscopic minority in the State.

President: As the honourable member rightly said, his is the main opposition speech. But I want to have one doubt cleared. Supposing a Travancore subject marries his girl of three years of age with a young man in Tinnevelly of twenty years of age, is that young man liable under the Child Marriage Restraint Act in British India or not?

Mr. T. V. Ramakrishna Aiyar: He is liable under the Amendment Act there.

President: Therefore the position is that this can only apply where marriages are solemnised between Travancore girls and Travancore boys; and if a Travancorean girl marries a boy outside the border he will be penalised and the same thing will happen to the Travancore girl. Does the honourable member realise that?

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Mr. T. V. Ramakrishna Aiyar: Yes, Sir.

Their number has been considered negligible for administrative purposes and why then this over-anxiety to legislate for them in society. Even in that community, the number of child widows may not exceed one hundred in the whole State. In most streets there are no child widows at all, in some villages there may be one or two and in a country like Travancore about a hundred. Is the House going to legislate for this small number and waste its valuable time? This small number will go down year after year as modern tendency is otherwise. As I have stated, the number may be considerably more in other communities, several thousands. The conclusion is irresistible that the remedy has to be sought for by ways other than that of tampering with the marriage laws.

There is yet one reason alleged for bringing in this measure, *viz.*, over-population as a result of child marriage. I am only sorry for those misguided individuals who take to this view. If there is over-population, there is also over-destruction. There are frequent wars, earthquakes and visitation of fell diseases that take a heavy toll of human life every now and then. Mother Earth knows how to get rid of her burden. The one modern fad to prevent over-population is birth control and the use of contraceptives. It has converted human beings into beasts in several parts of the world and in spite of the bitter lessons learnt, advocates of birth control have sprung up in India also. It is rather disgusting to go into the ethics of the use of such methods in a respectable body like this House but it is well to recognise the undisputed fact that their use has been necessitated only by late marriages. I believe everybody in this House knows these accepted facts and I am really surprised that a Bill of this kind should have been brought forward to advocate late marriages. The world is moving fast not towards new theories but towards old systems as a result of bitter experience of society having been completely upset by a new unwanted order. It is amusing to learn that the most ardent advocates of birth control in India are those who have the maximum number of children or those who have not married at all. How far birth control is carried out in practice is a matter only for academic argument.

President: Are we now discussing birth control? I thought we were now dealing with the question of this Bill.

Mr. T. V. Ramakrishna Aiyar: The best remedy is to leave Nature to herself. There never will be over-population. There is today a cry all over the world of want of man power. Take for instance France, Italy and very recently Japan. These countries give a premium for early marriages and offer a monthly allowance to each family for the production of the maximum number of

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children in the shortest time. Has then the charge of over-population any meaning? The oft-repeated arguments having, in my opinion, proved fallacious, what is the reason for bringing in a measure of the kind? I attribute it entirely to the fad of women legislators everywhere to copy Bills in other places and introduce them in places where there is absolutely no necessity for such Bills. As everybody knows, women are the worst imitators. Take the Indian women. The present day dress, habits, the use of face powders and even the doing of the hair is entirely after the western model. I seriously ask, where is the necessity? Copying a Bill in force in another country is one such imitation by a modern woman legislator. I will not be surprised if tomorrow a Bill is brought forward at least as a war measure of economy fixing shorts and topees for women of all communities on the ground that such modes of dress are very convenient and are used in New Zealand and in the islands of the Antarctic Ocean. Our only security lies in the fact that no such Act has been enacted any where and we may wait for a long time before an original Bill is brought forward. Or it may be for the removal of the holy thread of the Brahmin community on the ground that its presence makes an invidious distinction and the modern youth finds it most inconvenient with his cropped head and cigaretted mouth to wear it. Or the next attempt may be to enact a measure that all brothels within the State should be removed beyond its limits. A Bill of the kind may have our full spmpathy and active support, but is it wise, after all, to enact a measure of the kind. Sir, as many have pointed out before, the Statute Book is the index of the political, social, and educational advancement of the people. If an outsider turns over the pages of our book of Statutes, will he not be misled into thinking that Travancore is not after all, what it is pictured to be, a model State, in every respect but is full of dark spots all round and that disgraceful social evils are rampant in the State. Is such an impression good for all of us, good for the Government and good for the State as a whole? Do you meet with any number of child widows as you pass along a Brahmin street or do you see any number of sickly and unhealthy children lying uncared for in the front pavements of every house? Everybody here can give easy answers to these two simple questions and why then is such over-enthusiasm shown in bringing in a measure which was once rejected by this very House? It is an inroad into the domestic life of a most intelligent, most loyal and most peace-loving minority. During the disturbed times of the State Congress activities, the Brahmin community was the *only one* community that stood completely out of the movement and stood solidly by the Sovereign and by the Government. Is the disruption of the Brahmin home the reward for that loyalty? It

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[Mr. T. V. Ramakrishna Aiyar.]

is an attempt at meddling with the liberty of the individual, which cannot be tolerated. What then is the result of an outsider's intrusion into the quiet life of our homes? It means the forcible destruction of everything that is held sacred and more particularly as a Samaskaram and a sacrament. Can the sponsors of the Bill explain what the religious significance of a marriage is to a Brahmin, and have they understood the intricate details of a marriage.

The best remedy for the evil, if it does exist, is to cultivate and spread a sense of consciousness in the communities concerned which will make the contemplated reform grow from within and not from without by legal pressure. Even now it is a fact that considerable improvement is seen in this direction during the last four or five years. Girls are now married, as a matter of routine, only after 15 years of age. More than 95 per cent. of the marriages now performed are of this description. Whether this is due to economic causes, the high bridegroom price demanded or a dearth of suitable bridegrooms or to social consciousness as a result of modern education need not concern us now. Suffice it for us to know that the advocated reform is there already. There is only a small 5 per cent. left over, and are you going to legislate for this 5 per cent. which itself may be non-existent in another five years? Is it not better to achieve the result by such means than by forcing it down the throats? Sir, I would make an earnest appeal to you to seriously consider what will be the practical effect of giving legal sanction only to marriages performed after the age of 14 of the girls. Any prosecution under the Act cannot make a marriage duly solemnised void. The principle of *Factum valet* has been given the widest recognition in the case of marriages under the Hindu Law. What then do you gain by dragging the parties to court? They will not hesitate to pay a small fine when they decide upon the marriage. The next immediate effect is that the Bill allows the widest freedom to a parent to keep his daughter unmarried. Till now every father is compelled by social usuage to marry his daughter before a certain age with the result that there is not one unmarried girl in the community. This is not to be in the future. My friends can well understand what that position really means. When once this social restriction is removed and legal sanction is given to keep a daughter unmarried to any age we do not know where we will be. Every home will contain any number of unmarried girls. The Hindu home and all the purity that it can boast of will leave the shores of Hindustan for ever and for ever never to return. That is the position the Bill will drive us into. I do not know whether

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this consummation is to be devoutly wished. Sir, whether we educated Indians, should allow ourselves to be befooled into this dangerous pitfall is for this House to seriously consider. Sir, I may be crying in the wilderness and the Bill may perhaps be passed. The specious pleading and the vigorous canvassing of votes on its behalf by a woman may not go in vain.

(*President's bell*).

Mr. T. V. Ramakrishna Aiyar : I may be allowed a few more minutes.

President : The honourable member has already taken 27 minutes and he must have compressed his remarks.

Mr. T. V. Ramakrishna Aiyar : I did not know that the time limit will be fixed for speeches at this stage.

President : Order, order. The honourable member is not entitled to read but I have shown him some indulgence. The honourable member knew that the time limit was fixed at 15 minutes. I extended it by twelve minutes and he should have compressed his speech. I am willing to extend the time by another five minutes, but the honourable member must finish within the time.

Mr. T. V. Ramakrishna Aiyar : I shall conclude soon. Sir, it was only very recently that this House pronounced its considered verdict on this Bill. I thought that the Bill was dead and buried months ago unhonoured and unsung. But it now shows signs of life on account of an injection given to it. Like all injections given when life is ebbing away, it can have only one effect of making the Bill a mass of lifeless ink. It is perhaps waiting for a funeral oration and when once that is delivered, it will be time to lower the coffin to eternal rest. As the rules under a strained interpretation perhaps allow a reintroduction, the Bill has come up before us once again. I cannot conceive that anything has happened during the last few months to justify a change of verdict now. It is well to remember the fact that the House has not changed. It consists of the very same members with the very same amount of intelligence and foresight, the communities concerned have not had any electric change and it goes without saying that the very same verdict should be recorded this time also. What astonishes me is the fact that the mover should have dared to bring in this Bill a second time so soon. It may be that consistency is not one of human virtues. I consider it an insult to a respectable and responsible body like this House and I feel confident that it will be accorded that treatment which it richly deserves.

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[Mr. T. V. Ramakrishna Aiyar.]

The Rau Committee appointed recently by the Government of India to enquire into the property rights of women under the Hindu Law is now doing work and there is a proposal throughout India to refer the marriage laws also to that Committee more especially. Dr. Deshmukh's astounding Bills, the Divource Bill and the Bill legalising inter-caste and even international marriages. It is possible that the opinion of the Federal Court may also be invited. The rights to property of Hindu women have an indirect effect on the marriage laws. As the marriage law is the same for the Brahmin in British India and in Travancore, may I request the House to wait till the Committee's report is published and the necessary law passed in British India ?

To the lady members of this House, I would make an earnest appeal. I would request them to view this measure as mothers of girls. They should have realised already what it is to have unmarried girls above 15 years of age in the house. Their social laws may allow it but, nevertheless, the danger continues to exist. If they ask their Brahmin sisters, they will tell them that to have grown up unmarried girls in the house is like carrying fire in the stomach. This should give the clue to your verdict and should enable you to come to a decision as mothers.

I have learnt with no little satisfaction that the system of child marriage is prevalent in certain other communities though to a limited extent. I do fondly hope that the representatives of those communities here will wholeheartedly join with me in condemning the measure. To those other communities who are not affected by the provisions of this Bill, I will appeal to them to respect our feelings, to consider the severity of the provisions and the extreme injustice of forcing an unwanted measure on a helpless minority. They should well recognise the fact that it is a case of भुक्तुण्डोहं भूपतिस्त्वंहि. Now my turn, yours will also come and any day they will be caught in the very same mesh. I would make an earnest appeal to them to join with me in voting down the Bill.

Turning now to the provisions of the Bill, I may say that certain provisions do not appeal to me. Sub-clause II of Section 6 is an abnormal provision the like of which it is difficult to find in any statute book except perhaps in fiscal laws. It is impossible to conceive what the grounds are for putting in this provision. After all, the offence is only one of negligence and that against a social law. Is it a more heinous offence them the grave offences mentioned in the Penal Code where the accused's innocence is presumed.

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I may not be surprised if tomorrow the offence of arson will not be presumed against a man who goes out with a match box in hand or the offence against the marriage laws will not be presumed if a man and a woman, not married, are seen together. Is the offence so rampant as to demand this drastic provision. At this rate, I dread to think whither we are being led. There must be a sense of proportion in what we legislate. To say the least the presumption mentioned is preposterous, against all recognised canons of jurisprudence and is against our common sense. It exhibits rather a vindictive tone for which there is absolutely no necessity. Nor can I understand the Proviso to this Section and to Section 10 that a woman shall not be liable to imprisonment. Is this exemption put in because the maker of the Bill is a woman and wants to get preferential treatment for the members of her sex? It shows a regrettable want of realisation of the realities. It is the woman in the house who is the prime cause of child marriage and is in fact the determining factor and if she is exempted from imprisonment, you will always be exempting the real wrong doer. I have yet to know of a law where the abetter is liable to a greater punishment than the principal. In conclusion I beg to appeal to the Government to realise that this is a clear case of a majority sitting on a voiceless and unrepresented minority. What is now the trouble in India today? Mr. Jinnah and the British Government say that in any future constitution of India, the interests of minorities should be safe-guarded to which all the other parties agree. It means that the crushing of the minorities by the majority should be safe-guarded. What do we see in the present Bill? What is feared in British India is attempted to be done here. Is it not therefore the duty and the function of Government to run up to the rescue of the minority communities and safe-guard their interests especially when that minority in point of numbers is beyond even recognition and is voiceless? The Government has thus a clear responsibility of safeguarding the interests of such minority communities and I feel confident that they will discharge that responsibility by shelving the Bill, even if passed, in the archieves of the Secretariat. Without placing the Government in such a delicate position, I hope the honourable mover will have the grace to withdraw the Bill.

I sincerely thank the House for giving me a patient hearing.

Mr. G. Narayana Aiyar: Sir, this Bill was thrown out by the Council on the last occasion. Nothing has happened since to necessitate a change from that position. Neither the mover of the Bill, nor the co-opted lady member was able to give any convincing reasons for following a different course. The reasons advanced by the lady member are not real. On the contrary

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[Mr. G. Narayana Aiyar]

something has happened since, which will show that there is no necessity to pass this piece of legislation which is capable of doing much mischief. A recent Full Bench decision of our Honourable High Court, appearing in the February number of the Travancore Law Journal, Page 187, has considered this question. The real question which Their Honours had to consider in that case was till what stage an unmarried daughter has to be maintained by the father under the Hindu Law. In discussing the question Their Honours had also to enquire into the question of marriageable age of a girl under the Hindu Law. Their Honours say at page 196 :—

> "Unmarried daughters are entitled to maintenance under the Hindu Law. There is little by way of precedent on this matter although the ancient Hindu Law texts enjoin such a duty upon the father. But the extent of the duty, whether the obligation is personal or can only be answered from the family properties or whether there is any limit to the right of the unmarried daughter is not clear from the texts. Gopal Chandra Sirkar Sastri in his book on Hindu Law 1936 Edition page 118 quoting from Yama translates thus: "If a girl be given in marriage when she has reached the twelfth year her mother and father as well as her elder brother, these three go to the internal regions having seen her catamenia before marriage" Mayne says at page 110 of his book on Hindu Law 1922 Edition:— "All the early writers inculcate the giving of a girl in marriage before she attains puberty. We may take it therefore that the early texts contemplated the marriage of daughters during their minority and before they attained puberty "It may be inferred from the texts that the daughter should be maintained by the father till marriage."

When Their Honours have laid down that girls governed by Hindu Law should be married before they attain puberty, i, e., 12 years of age, to pass this Bill fixing a later marriageable age will be a serious calamity to those governed by the Hindu Law. Another question that came up for consideration before the High Court was whether the guardian of an unmarried girl—in the particular case the guardian was the mother—is entitled to claim from the father of the girl the expenses of her marriage. In that case the father did not care to get his three daughters married though two of them had attained majority. Hence the mother guardian had to file a suit. After discussing also the marriageable age of a girl Their Honours laid down that the father is not bound either on principle or by precedent to maintain the girl if she has attained majority and that the father is under no legal obligation to get his daughter married.

President: What is the judgment?

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Mr. G. Narayana Aiyar: If the girl is not married before majority, Their Honours said that the father has no legal obligation to maintain the girl.

President: Is it majority or puberty?

Mr. G. Narayana Aiyar: Their Honours say majority, not puberty.

Mr. Puthupally S. Krishna Pillai: Has he any legal obligation to marry the girl after that age?

Mr. G. Narayana Aiyar: It is his duty to get his daughter married. The husband will be bound to maintain his wife from the date of marriage. But if the girl is not married before she attains majority there will be nobody responsible to maintain her not even the father as per the above decision. And if she remains unmarried till she attains puberty then she will have her own views about marriage. Marriage becomes a complicated matter. The father's liability to maintain her after majority ceases. She has no legal share over the family property or even a claim. Under the Hindu Law she becomes a destitute and under the custody of none. Under such circumstances wherein lies the necessity for such a dreadful legislation? Such legislation is very hard and undesirable especially after the above said dictum of the Honourable High Court.

Coming to the other point, honourable members will kindly note that all laws respect the religious sentiments of every community. Chapter XV of the Penal Code deals with offences relating to religion. It lays down that those who do not respect the religious sentiments of other communities or wound the religious sentiment of any person by uttering words, making sounds or by exhibiting objects with the intention of wounding religious feelings of any person shall be punished. This benevolent provision of law is now being set at naught by this Bill in utter disregard of the sentiments of the Brahmin community. But what are we doing here? Our religious sentiments are being affected by this legislation. Is it reasonable in the face of the provisions of the Penal Code about respecting the religious sentiments of every community to pass this legislation? I request honourable members to see that the religious sentiments of this minority community are respected.

I oppose it also on another ground. A similar legislation was brought forward in the Hyderabad State, an ideal State which holds the very same position as this State notwithstanding the predominance of the Mahomedans. It was opposed by the Hindu community and the Bill was dropped.

Mr. V. Sankara Menon: Does the member know that Cochin has recently passed a Bill?

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Mr. G. Narayana Aiyar: I know that Cochin has passed a Bill, but those who want protection are protected.

President: I do not think we need compare other States.

Mr. G. Narayana Aiyar: The grounds alleged for the introduction of the Bill are, firstly, early widowhood. That defect has been removed by the passing of the Widow Remarriage Act in our State. The next ground is early maternity. So far as the Brahmin community is concerned, the marriage is only un irrevocable religious betrothal. The marriage is a religious ceremony as laid down by sacred texts including performance of *Homa* and *Sapthapati*. No such ceremony is performed by other communities. What I say is, let this religious ceremony be allowed to take place before 12 years of age and let us legislate for consummation of marriage at 16 or 17. Our only point is that the girl should be married before puberty. If the consummation is directed to take place by legislation after the girl attains 14, 16 or 17 years of age, the objection about injury to health cannot hold good. As such the grounds stated by the mover for the Bill are not substantial or valid. After all, is there as much mischief in our State as is stated by the mover? Why not we wait for the Census Report to ascertain what is the extent of child marriage in our State after the last census? If there is no mischief why should we legislate? When the Bill in British India was under consideration that Government referred the matter to the various Judges of the various High Courts and Sir S. Varadachary who was then a Judge of the Madras High Court gave the honest opinion that in a matter of this kind legislation was not the proper or right course to be adopted. The reform must come from within and must not be dictated from without. Why not you leave the community to have its own existence? There have been meetings and memorials against the Bill from amongst the Brahmin community. Although there may be a negligible few who may be for this legislation, the majority of the Brahmins is against it. If so will you not respect the opinion and religious sentiment of the majority? In Northern India even religious processions are not allowed to be taken before Mosques for fear of wounding or disturbing the religious sentiments of the Mahomedan community. Should we ignore that principle here? Seeing that the Bill has been once rejected by this House and seeing that no compelling circumstance necessitating the legislation was brought to the notice of this House at present, I appeal to the honourable members of this House to respect the sentiments of the community and rule out the motion for consideration of this Bill which is irreligious and unwarranted and unsastraic so far as the Brahmins are concerned.

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Mr. Kochickal P. Balakrishnan Tampi (*Karunagapally Kartikapally and Ambalapuzha cum Shertallai*): Sir, it was not my intention to make a speech. But when I heard the arguments advanced by my honourable friend against this Bill I was provoked to make a speech. They were saying that this is the result of a conspiracy by all the people except the negligible microscopic minority they claim themselves to be. It may not be complimentary to the honourable member to be told that he is arrogating to himself a position of importance which others do not recognise.

They are as good, bad or indifferent as any other people in the State, and other people are not anxious to bring them down on the simple ground that they do not realise that Brahmins are very high in any sphere of human activity. Therefore I do not wish to speak about the *smrithy* and other *sastras*. Even at the point of provocation, I remember the long line of distinguished social reformers who had the honour to belong to this community. From Raja Ram Mohan Roy to the Rt. Hon'ble V. S. Srinivasa Sastri we find a large number of learned Brahmins who believed in the *Smrithies* and the traditional law and who have clearly expressed their view that it is against the interest of the community to allow marriages to be conducted before puberty. We do not want the authority of the *smrithy* in this matter.

It was said by an honourable friend that after the age of 12 the girl becomes a matter of very great anxiety for the parents. Speaking of girls of all communities including the Brahmins I can say that no parent is anxious about "that fire" referred by my friend so long as they are careful to look after the proper behaviour of their children. I do not want to be more specific in a House in which there are lady members also. It is an insult not only to the members of the Brahmin community but to all communities to say that a grown up girl is a menace to the house. It will not be so unless the parents set very bad examples.

Secondly it is those gentlemen who very stoutly opposed the entry of non-caste Hindus into temples that hail the Temple Entry Proclamation, another very important religious reform. I remember numerous orthodox Brahmin friends going before the V. S. Subramonia Iyer Committee and giving evidence that the skies would fall down if access to the temple is allowed to men like Mr. Govindan and it is now those people who in a demonstrable way commemorate that event. Likewise I am sure if this Bill is passed they would thank this House for the great good it has done to the Brahmin community.

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[Mr. Kochickal P. Balakrishnan Tampi.]

One Honourable member was inclined to question the right of Mr. Govindan to introduce this Bill in the House. For that matter I may say that any member of this House is competent and in fact represents every individual who has the honour to claim to be a subject of His Gracious Highness the Maharaja. In fact every non-Brahmin member of this House represents as many Brahmins as any Brahmin member. Therefore, there is no point in either saying that Mr. Govindan is not competent to introduce this Bill or that the *Sastras* and *Smrithies* do not allow such a measure.

Those who see an inch beyond their nose can know that the Tamil Brahmins here have marital relationship beyond the ghats. Therefore it is in their interest that the law is making reform. Therefore, for the sake of uniformity of law, I urge that the Bill should be passed by this House.

Whatever may be the arguments put forward in support of this social evil, I personally had the occasion to see many of these Brahmin girls of 13 and 14 having two or three children looking the very picture of agony. It is in their interest that the marriage should be put off a reasonable time so that they may come into line with their sisters in the matter of general attainments, culture, education and other social equipment. Therefore on that ground, I certainly, advocate that we should not obstruct this legislation. When this legislature is far in advance of similar institutions elsewhere we should not take upon ourselves the blame that we obstructed a social legislation of this nature.

It was pointed out here that such a piece of legislation was dropped in a neighbouring State. Especially after the announcement of the Chair I do not want to say anything about any other Indian State. Even if it was not adopted in British India or in any part of the world, yet on the merits of the Bill, I appeal to all people who have the rudiments of modern knowledge to see that it is passed here. I can understand the anxiety of a person to get married his girl at the age of 12 or 13 when the social conditions were different; and when he lived in the surroundings of robbers he was anxious to see that another helpmate comes into the family in the guise of a husband to a girl. But thanks to the Penal Code, the Travancore Police Act, the Criminal Procedure Code and other similar laws we need not have such fear and for the information of the members I can say that the State will ensure their safety. I trust that with this assurance of the State, the objectionists will withdraw their objections. I also appeal to the House not to be carried away by the opinion expressed by some honourable members against Mr. Govindan. Let us have the honour to support an important legislation sponsored by such a distinguished person as Mr. Govindan,

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Mr. James Fletcher: Sir, there is a misconception among the honourable members that this Bill is meant only for one community. My submission is that this Bill is meant for all communities and all people in Travancore alike. Child marriage has been existing not only among the Brahmins but also amongst Mahomedans and Christians. As my friend Mr. Ramakrishna Iyer has stated, the census would clearly show that there were early marriages among these communities. So this Bill is not meant for one community alone but for all communities. This Bill affects not only Brahmins but other Hindus, Mahomedans and Christians. The allegation made by some of the previous speakers that this Bill is meant as an instrument to affect a particular community is wrong.

I want to submit another point in this connection. In these days when we are desirous of improving the physical and intellectual capacity of the citizens of Travancore, it is the duty of the Government and the members of this House to see that children are born healthy. With this object in view marriages can be allowed between the man and woman when they are fully developed. If marriages are conducted at early ages it would naturally bring about very bad results. That idea is well-known and it will be supported by every medical man. For the sake of healthy generation we want a Bill of this sort. After all, this Bill is a modest one. What does it say? It says that a child means a person under 14 years of age. I would even go to the extent of raising the age-limit to 16. Moreover we are only bringing the law of the State in conformty with the British Indian Statute. Most of our people, Christians, Mahomedans or Hindus have relations in British India and marriages are conducted between the members of families in Travancore and those in British India. Therefore, this social law should be in consonance with the British Indian Law. So this Bill should be passed and brought into effect. It cannot be said that majority communities are trying to force a law upon the minority communities. We want to enact this Bill for all people of the State. My friend Mr. Narayana Iyer was referring to certain decisions of the High Court. The High Court does not go to the extent of saying that 12 years of age is the age before which marriage should be conducted.

President: The House will now adjourn and meet again at two O' Clock.

The House adjourned for lunch at 1 P. M. and re-assembled at 2 P. M. with the Dewan-President in the Chair.

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MEMBERS SWORN.

The following members took their oath and signed the rolls.

1. Dr. H. Parameswaran (*Controller of Stationery and Printing*).
2. Mr. P. J. Thomas (*Deputy Chief Engineer*).

Mr. James Fletcher: Even honourable members who are opposing the Bill now in theory follow the Bill in their daily practical life. So much so we are only putting this Bill in accordance with what is actually happening. Therefore this Bill ought to be passed by this House.

Mr. Thomas Chandy Mukkadan (*Nominated*) : സർ, ഈ ബില്ലിനെ ഞാൻ ശക്തിയായി എതിർക്കുന്നു. പൗരസമൂഹത്തിന്റെ ഒരു ഗണനീയമായ വിഭാഗത്തിന്റെ സമുദായാചാരത്തെ അതിലംഘിച്ചും അവരുടെ അനുഷ്ഠിയെ അവഗണിച്ചും ഒരു നിയമം പാസ്സാക്കുന്നതു് ഒരിക്കലും ശോഭനമായിരിക്കുകയില്ല. നിലവിലിരിക്കുന്ന ഏതെങ്കിലും ചടങ്ങുകൾ, അല്ലെങ്കിൽ സംപ്രദായങ്ങൾ ജനസാമാന്യത്തിന്റെ അഭിവൃദ്ധിക്കു പര്യാപ്തമല്ലായെന്നു് കാണുമ്പോഴാണു് സാധാരണയായി നിയമം പാസ്സാക്കുന്നതു്. ഈ തത്വത്തെ മുൻനിറുത്തിനോക്കുമ്പോൾ തിരുവിതാംകൂറിന്റെ ഇന്നത്തെ നിലയ്ക്കു് ഇതുപോലെ ഒരു നിയമം പാസ്സാക്കേണ്ട യാതൊരാവശ്യവും കാണുന്നില്ല. ജനസാമാന്യത്തിന്റെ ആചാരങ്ങളേയും അവരുടെ ഇടയിലുള്ള സംപ്രദായങ്ങളേയും ശരിയായി പഠിച്ചിട്ടുള്ള ഒരു പൗരനു് ഈ നിയമം ഇവിടെ ആവശ്യമില്ലെന്നു തീർത്തു പറയാൻ സാധിക്കും. ഒരു സമുദായപ്രവർത്തകന്റെ നിലയിൽ കഴിഞ്ഞ പല സംവൽസരങ്ങൾക്കുള്ളിൽ തിരുവിതാംകൂറിന്റെ നാനാഭാഗങ്ങളിൽ നടന്നു്, ഭിന്നസമുദായത്തിൽപ്പെട്ടവരേയും അവരുടെയിടയിലുള്ള ആചാരങ്ങളേയും കണ്ടറികയും ശരിയായി പഠിക്കയും ചെയ്തിട്ടുള്ള എനിക്കു് ഒരിക്കലും, ഇതിനുമുൻപു പ്രസംഗിച്ച മാന്യന്മാർ ഈ ബില്ലിന്റെ അവതരണത്തെ അനുകൂലിച്ചുകൊണ്ടു നടത്തിയ വാദപ്രതിവാദങ്ങളിൽ ഉൾക്കൊണ്ടിരുന്ന യുക്തിയെ സമ്മതിച്ചുകൊടുക്കുവാൻ നിവൃത്തിയില്ല. ഇതിനുമുൻപും തിരുവിതാംകൂറിൽ ഓരോ സമുദായങ്ങളുടെയും ഇടയിൽ ബാല്യവിവാഹം നടപ്പിൽ വന്നിരുന്നുവെന്നു സമ്മതിക്കപ്പെട്ടിരിക്കെ ഒരു നിയമംമൂലം ഇപ്പോൾ അതിനെ തടയുവാനുള്ള കാലം സമാഗതമായിരിക്കുന്നു എന്നു പറയുന്നതിന്റെ യുക്തി താത്വികമായി നോക്കുമ്പോൾ അഭിനന്ദിക്കത്തക്കതുതന്നെയാണെങ്കിലും പ്രായോഗികതയിൽ കൊണ്ടുവരാൻ വളരെ പ്രയാസമുള്ള ഒന്നാണു്. മൃഗങ്ങളുടേയോ

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കന്നകാലികളുടെയോ കൂടെ സാമ്യപ്പെടുത്തി തിരുവിതാംകൂറിലെ ജനസ
ഞ്ചയത്തെ ചിത്രീകരിക്കുന്നതുകൊണ്ട് ഒരു നിലയ്ക്കും ഇന്നു് ഇവിടെയുള്ള
ഭൂമുഖത്തു ഏറ്റവും പ്രശസ്തമായ നിലയിൽ ഇന്നും ജീവിച്ചുകഴിയുന്ന
ഒരു സമുദായം, വിദ്യാഭ്യാസത്തിലും സംസ്കാരത്തിലും പാരമ്പര്യത്തിലും
ഒരാറാംമുതൽ മറ്റെ ആറാംവരെ പ്രാബല്യവും ഗണനീയസ്ഥാനവുമു
ള്ള സമുദായം ഈ നിയമം ആവശ്യമില്ലെന്നു ശക്തിയായി ഇപ്പോഴും
വാദിച്ചുകൊണ്ടിരിക്കെ, ഇവിടെ ചില സ്നേഹിതന്മാർ ഉദ്ഘോഷിച്ചുകണ്ടുകൊണ്ടും
ശരിയാണെന്നുതന്നെയും ഇതുപോലെയുള്ള ഒരു നിയമം ആവ
ശ്യമാണെന്നു കാണുന്നില്ല. ഇതിലും ഉപരിയായി ചിന്തിക്കുന്നപക്ഷം
മതസിദ്ധാന്തങ്ങൾക്കും ഏറ്റവും പ്രതികൂലമായി ശാസിക്കുന്നതും മതാൽമക
മായ വേദനയ്ക്കു കാരണമായിട്ടുള്ളതുമായ ഇത്തരം നിയമം ഇവിടെ ഈ
ഘട്ടത്തിൽ പാസ്സാക്കുവാൻ എന്തെങ്കിലും കാരണങ്ങൾ കഴിഞ്ഞപ്രാവശ്യം
ഇതു് ഈ സഭയുടെ പര്യാലോചനയ്ക്കു് കൊണ്ടുവന്ന പരാജയപ്പെട്ടതിനു
ശേഷം ഉണ്ടായിട്ടില്ല എന്നു ആരും സമ്മതിക്കുന്നതാണ്. ഒരിക്കൽ
ജനപ്രതിനിധികളായ ഈ സഭയുടെ അംഗങ്ങൾ അവ ഗാഢമായി
ചിന്തിച്ചു് ക്രുലങ്കഷമായി പര്യാലോചിച്ചതിനുശേഷം, അതിനെസംബ
ന്ധിച്ചു് തീവ്രമായി വാദപ്രതിവാദങ്ങൾ നടത്തിയതിനുശേഷം, വീണ്ടും
ഇന്നു് ഇത്ര ഗൗരവമായ രീതിയിൽ അതിനെപ്പറ്റി പുനരാലോചന
നടത്തി, മറിച്ചൊരു തീരുമാനം ചെയ്യേണ്ട യാതൊരു പരിതസ്ഥിതിയും
തിരുവിതാംകൂറിൽ ഉണ്ടായിട്ടില്ലെന്നു ഇവിടെയിരിക്കുന്ന ഓരോ മെമ്പറ
ന്മാരും സംസ്ഥാനത്തിന്റെ രക്ഷയേയും ജനസാമാന്യത്തിന്റെ നില
യേയുംകൂടി പരിഗണിക്കുമ്പോൾ നിശ്ചയമായും പറയുമെന്നാണ്
എന്റെ വിശ്വാസം ഈ വിശാലമായ ഹാളിന്റെ അങ്ങേഭാഗത്തു
കാണുന്ന തരുണീരത്നങ്ങളെ കാണുമ്പോൾ അവരുടെ നന്മയ്ക്കുവേണ്ടി
യാണു ഈ നിയമം ഇവിടെ ഉണ്ടാക്കുന്നതെന്നു വാദത്തിനുവേണ്ടി പറ
യാമെന്നുവെച്ചാലും സാമുദായികവും സാമ്പത്തികവുമായ രക്ഷയ്ക്കും സമു
ദായാചാരങ്ങളുടെ നിലനിൽപ്പിനും അനുഗ്രഹണമായിരിക്കുന്നില്ലായെന്നു
ബോദ്ധ്യമുള്ള ഒരാളിനും ഈ ബില്ലിനെ എതിർക്കാതിരിക്കാൻ തരമില്ല.
സാന്മാർഗ്ഗികമായും സദാചാരപരമായും സമുദായങ്ങൾക്കു മുമ്പുണ്ടായി
രുന്ന നില ഇപ്പോഴും നിലനിർത്തിക്കൊണ്ടുപോകണമെങ്കിൽ നിശ്ചയമായും
ഓരോ സമുദായവും അവർക്കു മുമ്പുണ്ടായിരുന്ന ആചാരസംപ്രദായങ്ങളേ
യും മതശാസനകളേയും അംഗീകരിച്ചുകൊണ്ടു അവരുടെ വൈവാഹിക
കൃത്യങ്ങളെ നിവർത്തിച്ചുകൊണ്ടുപോകേണ്ടതാണു്. ഇപ്പോൾ ഈ നിയ
മം പാസ്സാക്കുന്നപക്ഷം നമ്മുടെ നാട്ടിലെ അസന്മാർഗ്ഗികത്വംകൊണ്ടു

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[Mr. Thomas Chandy Mukkadan.]

ഉണ്ടായിട്ടുള്ള അനാരോഗ്യസ്ഥിതിയെ വിപാടനം ചെയ്യുന്നതിനുവേണ്ടി ഏറ്റവും മനോവേദനയോടുകൂടിയാണെങ്കിലും മറെറാരു ലജിസ്ലേഷൻ മൂലം ഇതിനെ തടയുവാൻ ഇവർതന്നെ വീണ്ടും വരുകയില്ലേ എന്ന് സംഗതികളുടെ അനുഭവജ്ഞാനം സിദ്ധിച്ചിട്ടുള്ള ഒരുവനെന്ന നിലയിൽ സംശയിക്കാൻ എനിക്കു ന്യായമായ അവകാശമുണ്ട്. അതുകൊണ്ട് തിരുവിതാംകൂറിന്റെ അഭിമാനത്തെ രക്ഷിക്കുന്നതിനും തിരുവിതാംകൂർകാരായ ബാലികമാരുടേയും സമൂഹത്തിന്റേയും സാന്മാർഗ്ഗികാചാരങ്ങളെ മൻനിറുത്തിക്കൊണ്ടുപോകുന്നതിനും വേണ്ടി ഒരു ജനപ്രതിനിധിയെന്ന നിലയിൽ എന്നിൽ ആരോപിതമായിരിക്കുന്ന കടമയെ നിർവഹിക്കേണ്ടിയിരിക്കുന്നതിനാൽ ഞാൻ ഈ ബില്ലിനെ എതിർക്കുകതന്നെ ചെയ്യുന്നു.

Mr. Kochikal P. Balakrishnan Tampi : Sir, I beg leave of the House to present a petition under standing order 64, signed by six members of this House. It relates to a matter under discussion in this House. And I pray that the Secretary be directed to read it to the House.

President : After the discussion is over, it will be considered.

Mrs. Abernam Gnanasikhamony (*Nominated*): Sir, I rise to support the motion. There is no doubt that this Marriage Restraint Bill is meant for the good of all the communities it concerns. And this bill is supposed by some as not worthwhile. But they will be only happy about this bill when it becomes law. Sir, I ask, is there anybody in this age who feels sorry for the abolition of "Sati"? No; none at all. Even amongst Brahmins, it is only the rich people who advocate child marriage and I know there are so many people among the poor and the middle class who groan under the oppression of the custom of pre-puberty marriage. The rich can afford to break customs and live happily in their community among their neighbours. It is the poor that suffer. I wish that the honourable members here who oppose this bill should be more broadminded, large hearted and farsighted. Then only they will be of useful service to the State. Again, Sir, it is really a pity that a school-girl is thrusted with the burden and responsibilities of a married life. We all know that the school or the college life of a girl or a boy is the happiest part of their lives and as parents why should we cut short that part of their lives? Sir, age limit of this Bill is fixed at 14 for the girls. But it would have been much better if it were raised to 16. In the last session of this House the

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honourable member who moved this Bill and the other honourable members who supported it did show clearly the usefulness and the appropriateness of a measure of this kind here. Even then some other honourable members who did not follow the custom of child marriage were not gracious enough to give their votes in support of this Bill. Now I think there is no need for me to repeat what was said then in support of this measure. I appeal to one and all of the members here to throw aside their othodox views, come down as practical men and vote for this Bill. That is all I ask humbly of them.

Sahib Bahadur T. Mahomed Ismail (*Nominated*): Sir, I have stated already when this Bill was first introduced in this Council for discussion, that the Muslim members do not wish to take part in the voting of the Bill, that is to say, they would remain neutral in the matter. The reasons are well stated in my first speech and I am glad that it is appreciated by the honourable lady member Sry. Ranganayaki Ammal when she said that the Muslim community rightly understood the Bill and so remained neutral when the Bill was discussed. I assure her that I have understood the Bill quite correctly and I have taken a stand consistent with the opinion of the whole Muslim community.

Though according to Islam, we are allowed to conduct marriage before or after the ages of 14 and 18 respectively for girls and boys, still we are allowed to conduct marriages before these ages; if necessary. Therefore this Bill will be a curtailment of our liberty. Still many communities in this country want such a Bill for their benefit and therefore we do not want to oppose the Bill. Let them have it if they want. But if a minority community like the Brahmin community wants to oppose it, we do not want to impose a bill on any minority community.

If the Muslims find it difficult and impossible in practice to conduct their marriages in spite of the provisions of Section 11 of this Bill, it must be open to us to move an amendment then. It may be asked, then, why I do not support the Bill now and bring forward an amendment in future. My answer is that my successors in the Legislature, if and when they wish to change this law, should not be told that the present members supported the Bill. It is for that reason that I make this statement after consulting the Muslim representatives here and outside.

Mr. Kochikal P. Balakrishnan Tampi: May I ask the honourable member whether there is any option to conduct pre-puberty marriage?

Sahib Bahadur T. Mahomed Ismail: At times it may be necessary to conduct marriage before puberty.

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Mr. M. K. Ananthasiva Aiyar: Sir, I oppose the Bill. Before the passing of the Sarada Act in British India there were not many among the Brahmin girls that remained unmarried after 12 years. But nowadays many of the girls remain unmarried even though they are 20 or 25 and we see ever so many advertisements in the newspapers for finding out husbands for these aged girls. The communities which are now conducting early marriages will have to experience that difficulty in case this Bill is passed. Another difficulty which the community will have to face is the one pointed out by Mr. Krishna Aiyar, that is about the preservation of character and chastity of the unmarried girls who have attained their puberty. There is a certain time during which sexual propensities have to be satisfied. Men are not like animals. But that is not the nature of man. We do not know when they will be affected by this curse. So much so there is every likelihood of the girls going astray when they attain a certain age. It is the business and duty of parents to see that their children do not go astray by seeing that steps are taken for early marriage in time. It may be with that purpose that a provision has been made in the Religious Codes that girls should be married before a certain age. Well in the interests of the community after all I would say that the marriage should be done before girls attain puberty. With these observations, I oppose the Bill.

Mr. K. K. Kuruvilla (*Mavelikara and Tiruvalla cum Pattanamtitta*): Sir, I support the Bill. We can discuss the problems on Bills like this from two standards, one from the standard of men and the other from the standard of women. Now the difficulty is due to the fact that we have one standard for our men and another standard for our women. My honourable friend said that we should safeguard the purity of our young girls but he does not say that we should safeguard the purity of our young men. I feel we should be careful about our young men as well. It is in the family that we see the progress of society and it is the family that we want to be pure. There are now two standards one for men and another for women. I therefore very strongly object to the way in which we have to look at the problems of our young men as different from the problems of our young women. It is said that consummation of marriage takes place after a certain age. If the puberty takes place between 14 and 15 and the marriage takes place at the age of 12 or 13, then why should we not arrive at an average between the two and find a common standard. According to the suggestion of one honourable member the year 14 may be changed into 12 and according to the suggestion of another honourable member it should be changed into 16.

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Another point which I think is more important is what my honourable friend said namely the Brahmin community is strong and intellectually superior to all other communities in the State. But it is a staggering surprise to me that there are only a very few Brahmin lady graduates. Taking the communities as a whole the Brahmin community is the most progressive community. It is said that the early child marriage in a way affects the progress and education of the Brahmin girls. It is as a friend of that community, it is as one who wants to see that community progress as any other community should and not as an outsider, that I would say that any impediment to the progress of education of the Brahmin girls should be removed.

Then it is said that these are religious questions which are difficult to be dealt with. I myself believe in spiritual matters. After all religion must help us in our attempt to elevate ourselves. A girl should have sufficient education to choose a man of her own stamp and fibre. Religion should not be allowed to stand in the way of progress. Reality must be ultimately faced. Therefore in considering this Bill, I hope we will have a unanimous vote for the passing of the Bill subject to any amendments that may be moved.

Mr. N. Krishna Aiyar (*Vaikom, Kottayam and Changanacherry* cum *Peermade*): Sir, I oppose this Bill. I do not wish to repeat the arguments advanced by the learned members who have opposed this Bill, because it is the second time that it is coming on in this House. From the various points that have been raised by the member who moved for the consideration of this Bill as well as the arguments advanced by the honourable members who have supported the Bill, to me it appears that no new circumstance has been brought out to change the considered opinion of the honourable members of this House. But since it has come again for a second time, I think it my duty just to point out the salient objections to the Bill. In spite of all that has been stated about this Bill, for and against, it still remains a fact that no proper necessity for such a legislation has been made out and no indication of any urgency has been shown either by the originator of the Bill in the other House or by the honourable mover in this House or by any of the speakers who supported the Bill. There has been no demand at any time by the members of the community who would be vitally affected by this measure. There is also the feeling, the conviction that this Bill violates the religious sentiments of a section of the people who are seriously affected by that and any piece of legislation which offends against the religious sentiments of any particular community should as far as possible be avoided unless it can be justified on much larger grounds. The reference made by

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[Mr. N. Krishna Aiyar.]

the honourable member Mr. P. B. Tampi to the Temple Entry Proclamation is neither relevant nor in order nor can stand any parallel with the present measure. There had been agitation for a long time for temple entry by a large section of the people and His Highness the Maharaja felt that a large section of the subjects were under certain disabilities and thought that those disabilities should be removed. Now, what is the disability that this Bill seeks to remove? Apart from removing any disability, apart from giving what anybody demands, it seeks to impose unnecessary restrictions upon the communities who have deep faith in the religious practices and traditions existing from time immemorial. My submission therefore is that the imposition of such a Bill is absolutely unwarranted, unjustifiable, and unnecessary, and especially so on a community which has lesser representation than any other community. The Brahmins will take care of their own religion and customs. Ever so many changes have taken place and they have stood the test of time and they have not been found wanting to associate themselves in any of the activities. It is therefore I submit that this Bill is unnecessarily thrust upon them, at any rate, on a large section of them.

We are living in an enlightened State where people think that legislation is the index of the civilization of the State. We find that there is no necessity either in practice or by statute to impose such legislation here, and so there is no justification to bring forward such a legislation. I would submit that it is unnecessary. It is suggested and has been pointed out by the originator of the Bill in the statement of objects and reasons that a similar measure has been passed in British India and if a similar measure is not passed here also, persons in British India would take refuge in Travancore to break the law in this respect. That has been amended there and so the main reason for enacting such a law here has ceased to exist. Going one step further we find that law similar to this has been passed in the neighbouring State. The scope has therefore been considerably narrowed down. There are only very few cases of child marriage. The word 'child' according to this Bill is described to be a male under 18 years, or a girl under 14 years. It is ridiculous to call it a child marriage if a 17 year old boy married a girl of 13 years. Although there is no law now, as a matter of practice and convenience we find that even members of the Brahmin community, some for convenience and some due to economic and other difficulties get their girls married at convenient times. But there is a feeling that if they are above

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the age of puberty they should see that their girls are soon married so that they discharge the religious and moral obligations which they bear to them. It is that feeling more than legislation that has to be inculcated, and that is a matter for education and not for compulsory legislation. We are unnecessarily putting forward a legislation upon persons who are able to practice and follow their own religious customs and tenets without wounding the religious sentiments and customs of others. Such being the case, it is, I submit, absolutely unnecessary to proceed on with this Bill. Another point which may be advocated is about the health of the future generations. Time has proved and census statistics show that such arguments are not based upon facts. In fact we find that the health of many children who are born of early marriages is sounder than that of the children who are the outcome of late marriages.

On the other hand, there are so many advantages in early marriages which we do not find in late marriages.

The originator of the Bill referred to the practice in vogue in other countries. But as is expressed by several eminent writers, even the western countries are now advocating early marriage and say that early marriage is better than late marriage. Let me in this connection refer to a few observations made by some of the greatest men in western countries.

Mr. Havelock Ellis says: "It is evident to every thoughtful person that real sexual morality is almost impossible without early marriage."

Dr. Marice Carmichael Stopes, another authority on sex in her book 'Enduring Passion' writes: "Early marriage is the natural and still the right thing. Almost every day which passes increases my conviction that the race runs innumerable dangers from the habit of delaying marriage which is becoming so common. Late marriage is the source of innumerable physical and social evils and incalculable unhappiness and discontent."

Thomas A. Edison, the inventor of gramaphone writes: "Obviously it seems to me that early marriages should be encouraged."

Judge Lindsay, in his 'Revolt of Modern Youth' says: "There are at least fifty thousand girls in New York living with men who are not their husbands, girls who should become mothers and don't care to have children because of the attitude society would take towards them." Again "Out of 493 girls of High School age who admitted to me that they had sex experience with boys, 25 became pregnant. The others avoided pregnancy, some

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[Mr. N. Krishna Aiyar.]

by luck, others because they had a knowledge of more or less affective contraceptive methods. I do dot guess this. I know it. During the 1920-21 the juvenile courts of Denver, dealt with 769 delinquent girls of High School age. They ranged in age from 14 to 17 years. I handled about a hundred cases of illegitimate pregnancy last year. (1924)." "Of the girls of High School age, whether in or out of school, who go to parties, attend dances, and ride together in automobiles, more than 90 per cent indulge in hugging and kissing, at least 50 per cent of these who begin with hugging and kissing do not restrict themselves to that but go further and indulge in other sex liberties, which by all conventions are outrageously improper."

Dr. Allen writes: "In some cities in Europe, more than 50 per cent of the entire population and more than 75 per cent of males suffer from gonorrhoeal infections. In Maiden Head, a small town with a population of 17,000, about 24 miles away from London, "the Maiden Head Moral Wetfare Association" had to be formed recently to check the appalling corruption of tender young girls who become mothers even at 13. The Association noticed 102 cases of unmarried girls becoming mothers at about the age of 13."

"John Bull" of 3-4-37 reports the experience of a London Probation Officer who says "Not a year elapses without hundreds of unmarried girls of 13 giving birth to babies."

Mr. T. B. Patington, F. I. C., F. R. C. S., in an article he contributed to an issue of Health and Strength in 1937, says: "Virginity no longer exists in England."

Mr. H. G. Wells writes: "We have substituted chastity by unrestrained sexual license."

Dr. Paul Ballard wrote in a French Scientific paper that early marriage is the only solution for abortions, unmarried motherhood etc. and his article was quoted with approval in the British Medical Journal.

Lord Dawson. the famous physician says: "If in any community marriage is late of attainment, an increase of irregular unions will inevitably result."

Mr. Frederic Pincot is also of the same opinion. He says: "It is universally admitted that compromise and concession form the solid basis of matrimonial happiness; and the sense of destiny imparted by early marriage powerfully promotes a spirit of compromise. The wise provisions have stood the test of centuries and by their result continue to proclaim their excellence. All parties

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are united in the opinion that Hindu married life is an exceptionally happy state and this is the clearest proof of the excellence of the system and the severest condemnation of those who are seeking to unsettle it."

Mr. Otto Rothfield writes in his "Women of India": "In general it may be said that the Hindu rules of marriage are conducive to the happiness of spouses and their happiness is less self-centred and more altruistic. The worth of a nation's womanhood can best be estimated by the completeness with which they fulfil the inspirations of love and its devotion, and judged by this standard the higher types in India need fear no comparison."

Mr. T. W. U. Park: May I know what is meant by early marriage?

Mr. N Krishna Aiyar: I take it to include marriage before puberty.

Mr. T. W. U. Park: It does not mean that.

President: Miss Mayo said certain things about India and other people said similar things about the western countries.

Mr. N. Krishna Aiyar: In this matter we are not to follow the western countries, who themselves have realised their follies; and to follow British India is also not justifiable, for the census reports show that the conditions in British India are quite different from those in Travancore.

Taking the Bill as it is, we find that it is based on fundamentally wrong principles. Even 'marriage' is not defined. It signifies different conceptions in different systems of law. I am only pointing out that it is loose, ill-conceived and ill-drafted. I therefore oppose the Bill.

Mr. V. Sankara Menon: I too must oppose the Bill though I have got very strong inclination to support it. When this Bill came two months ago before this House, this House very deliberately considered the arguments put forth for and against the Bill. We had the advantage of hearing a veteran leader of the Brahmin community Mr. Subba Aiyar and after due consideration we came to the conclusion that this Bill was not a necessary piece of legislation and we threw out the Bill. I do not think that anything has happened after that to merit any reconsideration. My main argument for objecting to the introduction of the Bill was that the motion has not come from the community which is to be affected by the Bill.

Mr. Kochikal P. Balakrishnan Tampi: To which community does Srimathy Ranganayaki belong?

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Mr. V. Sankara Menon: She is not the mover of the Bill.

The motion had not been put forward by a member of the community which is to be affected by this Bill and I would have supported the Bill if any member of the Brahmin community comes forward and says that there is some defect in that community and that has to be remedied. Instead of that, almost all the members in the community strongly oppose the passing of this Bill which is against the wishes of the community which it purports to affect beneficially. Again it has been pointed out as a new matter of argument that there are only a few Brahmin graduate ladies. That is an argument I have thought over for some time, but that is not sufficient ground why a child marriage should be restrained in this State. That may be due to many other reasons. I may also say in this connection that we find only a very few aged spinsters in that community as we see in other communities. That cannot be taken as an important argument for the introduction of a Bill of this type. My main argument even now is that the Brahmin community does not want such a measure to be passed. If my friends Messrs. Krishna Aiyar, Narayana Aiyar and others come forward and say that they want such a Bill I would have been the first to support the same. What is the basis or reasoning or justice to thrust upon them this Bill and force it down their throat? In spite of all these I would have supported this Bill this time, if it has been hinted that the fair name of Travancore wants a reform of this kind. Nothing has been shown at least to my satisfaction, that Travancore wants a passing of a Bill of this kind. If that was so, I would have disregarded all other considerations and strongly supported the Bill. On the other hand it is not shown that the Bill is necessary for Travancore and as it is this is a matter which affects a particular community and that community is against the Bill. Therefore I oppose the Bill.

Mr. T. K. Kittan (*Vaikom, Kottayam and Changanacherry cum Peermade*) സർ, ഞാൻ ഈ ബില്ലിനെ വീണ്ടും എതിർക്കുന്നു. അഞ്ചെട്ടുമാസങ്ങൾക്കു മുമ്പു ഈ ബിൽ ഈ സഭയിൽ ഹാജരാക്കുകയും, എതിർത്തവരുടെ സംഖ്യാബലംകൊണ്ടു് ബിൽതള്ളപ്പെട്ടുപോകയുമാണ് ചെയ്തതു്. അങ്ങിനെ തള്ളിക്കളഞ്ഞ ബില്ലിൽ യാതൊരു ഭേദഗതിയും വരുത്താതെയാണ് ഇപ്പോഴും അവതരിപ്പിച്ചിരിക്കുന്നതു്. ശൈശവി വാഹാ തമിഴ് ബ്രാഹ്മണരുടെയിടയിൽമാത്രം നടന്നുവരുന്ന ഒരു മതാചാരങ്ങളാണു്. ആ സമുദായം ഈ രാജ്യത്തു് ഒരു ന്യൂനപക്ഷം മാത്രമേയുള്ളൂ. ഒരു സമുദായത്തിന്റെ മതവിശ്വാസനടപടികളിൽ അന്യസമുദായങ്ങളോ ഗവണ്മെൻറുതന്നെയോ ഇടപെടുന്നതു് ശരിയായിരിക്കയില്ല.

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ഈ സഭയിലെ ബഹുമാനപ്പെട്ട ബ്രാഹ്മണമെമ്പറന്മാർ (പുരുഷന്മാർ) എല്ലാവരും ബില്ലിനെ എതുക്കണം. ശ്രീമതി രങ്കനായകിഅമ്മ മാത്രമേ അനുകൂലിക്കുന്നുള്ളൂ. രാജ്യത്ത് ഒട്ടുകെയുള്ള ബ്രാഹ്മണരുടെ അഭിപ്രായഗതി അന്വേഷിച്ചറിഞ്ഞശേഷം ഈ പരിഷ്കാരത്തിന് മുമിക്കുന്നതു നന്നായിരിക്കും. ഇതിന്റെ പര്യാലോചനകഠിക്കായി കുറേക്കൂടി സമയം അനുവദിച്ചുകൊടുത്താൽ ഒരു സമുദായപരിഷ്കാരമായി ബ്രാഹ്മണർക്കു തന്നെ ശൈശവിവാഹനിരോധനം ഏറ്റെടുത്താവുന്നതാണ്. വലിയ പരിഷ്കൃതരാഷ്ട്രമെന്ന് പേരെടുത്ത നമ്മുടെ രാജ്യത്ത് ശൈശവവിവാഹം ഇപ്പോഴും നിലവിലിരിക്കുന്നുവെന്ന് പ്രഖ്യാപനം ചെയ്യുന്നതു ആക്ഷേപകരമായിരിക്കും.

The question that the Bill be considered was put and carried. A poll was taken and the House divided as follows :

AYES 14.

1 Mr. M. Govindan.	10 Mr. A. Easwara Pillai
2 Sry. R. Ranganayaki	11 ,, Kottur Kunjukrishna Pillai
3 Mr. Kalloor Narayana Pillai	12 ,, Kochikal P. Balakrishnan Tampi
4 ,, K. M. Kesavan	13 ,, P. J. Simon
5 ,, T. W. U. Park	14 ,, C. N. Thuppan Nambutiri
6 ,, K. K. Kuruvilla	
7 ,, P. R. Godavarma Raja	
8 ,, James Fletcher	
9 Mrs. Abernam Gnanasikhamony	

NOES 9.

1 Mr. V. Sankara Menon	6 Mr. Thomas Chandy Mukkadan
2 Miss. Thressia Kora	7 ,, T. K. Kittan
3 Mr. N. Krishna Aiyar	8 ,, T. V. Ramakrishna Aiyar
4 ,, M. K. Ananthasiva Aiyar	9 ,, T. Krishna Pillai
5 ,, G. Narayana Aiyar	

NEUTRALS 10.

1 Rajyasevapravina M. K. Nilakanta Aiyar	6 Sahib Bahadur Abdul Tayeb Sheikh Kaderbhoy
2 Mr. S. Sundararajan	7 Mr. V. S. Arumukhom Pillai
3 Dr. H. Parameswaran	8 ,, D. Gainneos
4 Mr. Puthupalli S. Krishna Pillai	9 ,, M. Ramachandra Rao
5 ,, P. J. Thomas	10 ,, T. Mohamed Ismail

The motion was carried, fourteen voting for, nine against ten remaining neutral,

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Mr. Puthupalli S. Krishna Pillai : Before the Bill is considered, I request you, Sir, to give us certain directions as to the future progress of the Bill, as to how far we should stay and whether it has to be finished to-day or in this Session.

President : In a matter of this kind, I shall be largely in the hands of the House. Nobody wishes to obstruct the progress of the Bill or of the amendments that may be moved in regard to the Bill. If honourable members desire to sit late in case the amendments are not finished before 4-30 to day I shall make arrangements accordingly. If honourable members want to consider it at some other Session, that will be also acceded to. If, on the other hand, honourable members want an extra day, Tuesday is possible. Therefore I am leaving it to the honourable House. Any member who wishes to make a specific motion may do so.

Mr. Kochikal P. Balakrishnan Tampi : I propose that we sit late.

Mr. Kottur Kunjukrishna Pillai : I propose that we sit on Tuesday. In view of the large number of amendments that have been tabled I think that it will not be possible to finish it to-day however much we may sit late to-day. I therefore propose that we sit on Tuesday also.

Mr. James Fletcher : I support the proposition of Mr. Kunjukrishna Pillai.

Mr. T. V. Ramakrishna Aiyar : As some of us have urgent work to attend to next week, it may not be possible for us to be present here on Tuesday. I would suggest that the Bill may be taken at the next Session of the Council.

The question that the consideration of the Bill may be continued at the next Session of the Council was put to vote and lost.

The question that the consideration of the Bill may be continued on next Tuesday was then put and carried.

President : The House will sit on Tuesday.

The Secretary to the Council then read the memorials* from the inmates of the Stri Dharmalaya and the petitions* received from certain Brahmin residents of Valiachalai, Puthen Street and Fort, Trivandrum.

Clause 1.

The question that Clause 1 do stand part of the Bill was put and carried.

Clause 1 was added to the Bill.

Clause 2.

Mr. G. Narayana Aiyar : Sir I move that in Clause 2, sub-clause (*a*) line 2, for the word "fourteen" the word "twelve" be inserted.

* *Vide* Annexures IV to VII

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President: The honourable member will kindly speak up.

Mr. G. Narayana Aiyar: It appears to me that the objection to fourteen is that as a rule the girl will attain puberty before reaching fourteen. Pre-puberty marriage is the rule in the Brahmin community and any violation of that rule will be objected to very strongly. Those who believe in religion think that it is a sin to see their girls remain unmarried before puberty. Various texts can be quoted to show that marriage should be performed before the girl attains puberty. Although the Sarda Act has been passed in British India, we find that protests after protests have been raised by the community against it and resolutions and memorials have been sent for the repeal of that Act. Recently we find that a resolution has been passed and a memorial sent to the Viceroy that that Act should be repealed. Although that Act is in force in British India I know many instances in which the law is never observed. In the various villages in Palghat with which I am connected, I find that they disregard the provisions of the Act and conduct early marriages. Nobody raises any complaint and nothing is done against such marriages. So, notwithstanding that the Act exists in British India, it is observed more in the breach than in the observance.

Again, when one is religiously inclined, to ask him not to observe the religious principles is very hard on him. I would in this connection refer to the Full Bench judgment at p. 196 in 31 T. L. J. issued very recently. This is what Their Honours say—

> "If a girl be not given in marriage when she has reached the twelfth year, her mother and father as well as her elder brother, these three go to the infernal regions having seen her catamenia before the marriage". Mayne says at page 110 of his book on Hindu Law, 1922 Edition; "All the early writers inculcate the giving of a girl in marriage before she attains puberty. We may take it therefore that the early texts contemplated the marriage of daughters during their minority and before they attained puberty.".
>
> This judgment was passed by Our Gracious Highness the Maha-Raja of Travancore on the recommendation of the Full Bench of our High Court. This dictum has to be respected and observed and the Bill if passed as it is or if this amendment if not accepted it is exhibiting practical disloyalty.

I submit that it is highly necessary that this small demand by the community aggrieved by the imposition of compulsory pos-puberty marriages, may be allowed I would go further and say that even if other amendments are not allowed, at least this amendment may be allowed. We are prepared not to press other amendments if this amendment be allowed. This amendment will not affect the underlying principles.

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[Mr. G. Narayana Aiyar]

If this amendment is allowed there will be some sort of compensation. This is the most vital amendment. So far as the Brahmin community is concerned marriage is a sacrament which binds the parties as husband and wife for ever. The evil that is expected out of early marriage will be obviated by the nuptial being postponed to a later age. The parents do not like to have the nuptials of their daughters at a very early age. After marriage the girl lives in her father's house and goes to the husband's house only on ceremonial occasions. Even if the girl goes for some ceremony to her husband's house she is there only for a few hours; she goes back to her parents' house soon after the ceremony. Nuptials takes place only after puberty, and for that also there is a religious ceremony. I may be permitted to say also that those who follow religion strictly could not indulge in sexual relationship on all days in the week. Sexual union is prohibited in the week on some Thithis and Nakshatrams. As such the supposed evil is also prevented. Under such circumstances, I request the honourable members to agree to this simple amendment and respect the religious sentiment of the minority community.

Mr. N. Krishna Aiyar: Sir, I support the amendment. The community which is vitally affected by this Bill is the Brahmin community which follows the Mithakshara law. As is well known, marriage under the Mithakshara law is a sacrament, consisting of two ceremonies. the *Homa* and the *Saptapati*. Secondly, the conduct of the two religious ceremonies which constitute and complete a valid marriage under law does not go against the principle underlying this Bill because what is really intended to be prevented is the consummation. As has been pointed out by Mr. Narayana Aiyar, the consummation of marriage comes in at a later stage after puberty is attained. So that, by allowing this amendment there will be respect for the religious sentiments without seriously impairing the object of the Bill. I, therefore, support my honourable friend and join with him in appealing to the honourable members of this House to support this amendment.

Mr. Kottur Kunjukrishna Pillai: Sir, I think it is absolutely necessary to oppose this amendment which has been explained by the mover very dexterously as an innocent piece of amendment and that it should be passed so that we shall arrive at a compromise. Sir, I would not have taken the time of the House if I

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was not apprehensive that the House may take Mr.Narayana Aiyar at his word and nullify the Bill as it did once before. This amendment is intended to torpido the Bill as a whole. We want to prohibit marriages before puberty with a view to prolong the period of consummation and maternity. They say that they only carry on the religious ceremony at 12. "We are all religious people, we are all abstemious and lead saintly lives and consummation takes place only long after the religious ceremony is over." Sir, I am not disposed to take up the time of the House. Otherwise I could have placed before this House the evidence collected by the age of Consent Committee on the question of consummation of marriages. There are undeniable statistics to show that consummation even before puberty has occurred in innumerable cases resulting in inhuman injuries to the child wives. Evidence has been collected from all the Provinces of India. If there is any necessity I shall refer to all that.

Mr. G. Narayana Aiyar: Was any evidence taken in Travancore?

Mr. Kottur Kunjukrishna Pillai: Evidence was not taken in Travancore. Human nature not being very different on this side of the ghats, I do not think there is any necessity to take evidence here. Has not Mr. Narayana Aiyar brought forward legislation to bring our laws in conformity with those in British India? Is it after taking evidence, is it after ascertaining the views of the community in Travancore, that he brought forward those Bills? Sir, it has been found by experience that it is not possible to postpone the period of consummation effectively without restricting the age of marriage. It is not possible to control consummation because by the very nature of the act of consummation, it is not a matter that is possible for the public eye to detect. It is not possible to appoint officers and detect the crime. Why should you try to delude us by this argument? Do you consider that early consummation is an evil—an evil of considerable magnitude to the community as a whole? Do you admit that as a result of this, early child-birth occurs and there is increase in maternal and infantile mortality? Are you going to question these proved facts in this year of grace 1941? It is not possible to do so. So I consider that this amendment tries to nullify the effect of the Bill by fixing 12 years, a pre-puberty age, as the age limit of marriage. This amendment goes against the very root of the Bill and the Bill will become absolutely useless if the amendment is passed. Therefore I oppose the amendment.

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Mr. T. V. Ramakrishna Aiyar: Sir, I support the amendment. Mr. Kunjukrishna Pillai was rather vehement in his statement that, as a matter of fact, consummation cannot be avoided after marriage. This may be true in the case of other communities. Fortunately or unfortunately it is not so in the Brahmin community as a separate religious function is prescribed and celebrated for consummation. Nobody shows the least hesitation to wait for a few weeks or months. Patience is ingrained in the Brahmin constitution. He must be knowing how parents prevent consummation before puberty. The couples are kept scrupulously apart except for very few visits on occasions of religious ceremonies. Even when the girl goes to the husband's house she will be going in the morning and generally returning in the evening.

He was saying that he can quote the Age of Consent Committee's report; I can quote thousands of cases from other books to support my statement. Even according to him the number of cases of evasion is very very limited in the case of all classes. The number of cases alone may be nil.

Again taking the legal aspect of the question, if a girl is married to a boy, under the Hindu law the marriage is not void.

Mr. Kottur KunjuKrishna Pillai: The honourable member may bring in an amendment to nullify the marriage.

Mr. T. V. Ramakrishna Aiyar: My friend is a lawyer of some repute and I expect him to know the legal effect of a Brahmin marriage, duly solemnised. Sir, this piece of social legislation will affect the Brahmin community by compelling that their daughters shall not be married before a certain age, and that age is fixed as 14. This will do away with the sanctity of the Hindu marriage. It is in that aspect that I support the amendment.

The amendment was put and lost.

Mr. N. Krishna Aiyar: Sir, I move the following amendment:

"In clause 2, add another definition (e) as follows:—

(e) 'Marriage' means and includes the consummation or conjugal union between a male and a female as husband and wife solemnised and performed in accordance with the law and custom pertaining to the community to which they belong."

There would not have been any necessity to move this amendment if the former amendment had been passed. But as it has been voted down, I think it is essential to bring to the notice of the honourable members the necessity for defining the word 'marriage.' Though the Bill is called "Child Marriage Restraint Bill" the word marriage' has not been defined. The necessity for the definition

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for the word 'marriage' arose for the reason that marriages signify different procedures and conceptions in different systems of law. As I have pointed out, marriage under the Hindu law is a holy sacrament. The question of consummation does not arise at all whereas under the Mahomedan law marriage is a civil contract for procreation and intercourse. Marriage is defined in more or less the same terms in the Nair, the Ezhava and the Kshatriya Acts as a conjugal union between the male and the female. So, there is a good deal of difference in the word as defined in the Hindu law and in other systems of law. If it is consummation or conjugal union as defined in the various Acts, or a mere contract, there would not have been the necessity for this definition. But since it is found that the marriage ceremony as such and as known under the Hindu law is not objectionable, I submit that a similar definition is necessary and to a considerable extent that would alleviate the suffering to which the Brahmin community would be subjected to. I submit that a definition of this nature of the word 'marriage' is essential and therefore I move it for the acceptance of the House.

Mr. G. Narayana Aiyar: I second the amendment and in doing so...

President: The honourable member will speak up.

Mr. G. Narayana Aiyar: Marriage, as generally understood, is a union between the man and the woman and living as husband and wife. But that is not the conception of marriage at least amongst the Brahmins. Marriage has nothing to do with the conjugal union amongst the Brahmins. They do not begin to live as husband and wife from the date of marriage. It is a religious ceremony or *samskara* which establishes the irrevocable relationship of husband and wife between the couple. It has nothing to do with sexual union. Sexual union is quite different from marriage. It is only a betrothal. The sexual union which is known as *Garbadanam* or nuptials or *Ritusanti* takes place only long after. That also is conducted after due publicity and on auspicious *muhurtams*. The girl does not live in the husbands' house from the date of marriage but lives with her parents till she attains puberty and till the date of nuptials. They do not meet each other excepting on certain ceremonial occasions in their houses. I can understand the idea in the Bill that the age limit of consummation should be raised. So far so good. But to say that a religious ceremony of marriage even should not be allowed to be performed before a particular age is going too far and against the susceptibilities of the Brahmin community and wounding their religious sentiments. So it is highly necessary that at least in this respect the marriage

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[Mr. G. Narayana Aiyar.]

ceremony should not be restricted to be performed only after a particular age. The scope of the Bill may be limited to the actual sexual union or marriage as understood by other religions. So I appeal to the honourable members to see that we are allowed to perform this religious ceremony in time as laid down in our sacred texts. I request that we may be allowed at least that small privilege. With these words, I support the amendment.

Mr. Kottur Kunjukrishna Pillai: Sir, I oppose the amendment. The amendment is to add a definition to the word 'marriage.' According to the mover and the seconder marriage as generally understood is not a marriage according to the Hindu law. It has been said by the mover that according to the Hindu law the ceremony of marriage before consummation is marriage. He wants the definition in this Act to restrict it to consummation. The real purpose of the definition is to see that no restriction of age is placed in regard to marriage and to place a restriction merely on consummation, a thing that cannot be detected, the infringement of which cannot be noticed and thus make the law infructuous. That is the attempt made by this amendment. Though the methods are different, the object is the same. The Bill wants that effective restriction should be placed in regard to child marriage. There is no purpose served by merely restricting the age of consummation, which can and will be evaded. Therefore, there is nothing new in this amendment. The purpose of the Bill is to prevent girls being married before puberty. Therefore I think the House which has voted against the other amendment will give the same verdict on this amendment also which has got the identical object of frustrating the reform proposed by the Bill.

Mr. T. V. Ramakrishna Aiyar: I support the amendment. The word 'marriage' has been defined as including consummation to which certain social and religious functions are attached. I do not think there is any necessity for treating the Brahmin community on a different footing and imposing a social penalty by defining marriage as something else. Mr. Kottur Kunjukrishna pillai has said that there is no machinery to detect the period of puberty. In the Brahmin community certain religious ceremonies are attendant with consummation. It is openly announced. We are dealing with a Child marriage Restraint Bill and it is something astounding that in such a Bill, no definition is given of what 'marriage' is. It is perhaps left to the courts to interpret the word in any manner they choose. For these reasons I support the amendment.

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Mr. N Krishna Aiyar: Sir, a word in reply. Mr. Kottur Kunjukrishna Pillai has said that consummation cannot be detected. My friend may know that the Brahmin community has got religious functions attached to consummation also and to them it is as sacred as the ritual function. What is intended to be prevented is not the performance of going round the sacred fire but the actual consummation. The real object of the Bill is to prevent child marriages, marriage in the sense of early consummation and the results attendant on it. Marriage as prevailing among the Brahmins is purely a religious ceremony. This is found to be absolutely necessary for several reasons. In the case of Brahmins, the choice of a bride and bridegroom for bringing about a proper marriage is a more difficult task than in the case of other communities, because there are various restrictions enjoined by the sastras. There should not be marriages between the same gothras. Then the horoscopes should agree. It is not an exchange of looks or words or smiles that bring about a marriage. There are several religious considerations. If it is possible to achieve the avowed object of the Bill without wounding the religious feelings of the Brahmin community, I am sure the House will vote for it. I, therefore, appeal to the members to support at least this amendment.

Mr. K. M. Kesavan: We are here dealing with individuals. Whatever may be the custom with regard to the nuptial ceremony, whether it is openly celebrated or not, the husband and the young wife may not very often be able to check the feeling and we have got the old traditions with regard to even sages. I shall here quote a stanza:—

"വിശ്വാമിത്രപരാശരപ്രഭൃതയോവാതാംബു-
പർണ്ണാശനാ
സ്തേപിസ്ത്രീമുഖപങ്കജം സുലളിതംദൃഷ്ട്വാ-
വിമോഹംഗതാഃ
ശാല്യന്നം ഘൃതസംയുതംദധിയുതം ഭുഞ്ജന്തി-
യേമാനവാഃ
തേഷാമിന്ദ്രിയനിഗ്രഹംയദിഭവേൽവിന്ധ്യ-
പ്ലവേൽ സാഗരം."

This is the effect of woman on sages who practice austere penance and who subsist upon air, tender leaves and water so that they may be able to exercise self-restraint with regard to their sexual passions. Therefore if such sages as these were tempted by the presence of beautiful women, what will the condition of

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[Mr. K. M. Kesavan.]

ordinary mortals who take such affrodissiac diet as rise, ghee and buttermilk? So, I think, if the amendment is passed, it will defeat the purpose of the Bill, nay it will totally nullify it.

Mr. Kochickal P. Balakrishnan Tampi: Sir, I also oppose the amendment. My friends may not be aware that this Bill does not say anywhere that it applies only to the Brahmin community. My friends are unnecessarily fearing that this Bill applies only to them.

(*At this stage the President vacated the Chair which was then occupied by Mr. James Fletcher, one of the panel of Chairmen.*)

It applies to the Ezhava, Nair and to all who may cause any infringement of the law. About consummation and all those things I do not wish to discuss here. Anyway it would be an unplesant matter to wound the feelings of any community. I know lots of people, Hindus, who hasten the day of consummation more on grounds of domestic economy than on any physiological reason. In many poor Brahmin homes the parent may be too poor to maintain a married daughter. In other cases the husband or father may demand the presence of a serviceable female at home to attend to household work. In those cases that form of ceremony known as nuptials is gone through before the girl attains what we call the physiological puberty. Therefore when my honourable friend Mr. Kottur said that it is very difficult to detect cases it is true. I think my friends will not want the appointment of an Inspector-General of consummation in Travancore to visit such homes and to enquire into the things in detail. If not for any other reason, at least on grounds of public economy, it is not feasible to appoint such an inquisitorial police officer to find out cases where there is a breach of the law. Are all the Brahmin parents so virtuous as to observe every form of law sanctioned by the Sastras ?

Mr. T. V. Ramakrishna Aiyar: May I know whether these sarcastic references are relevant ?

Mr. Kochikkal P. Balakrishnan Tampi: I am surprised Sir, to find people of the community who have some sort of education opposing a piece of legislation like this. By such tactis as bringing forward the same motion more than once in different forms they think that they can postpone the evil day. But all the same they must know that this Bill will be passed into law. For these reasons I cannot but be sarcastic as it is an insult to the House to allow the bringing forward of one amendment when an identical one was defeated.

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The motion was put to the vote of the House and lost.

The question whether clause 2 stand part of the Bill was put to vote and carried.

Clause 2 was added on to the Bill.

Clause 3.

Mr. T. V. Ramakrishna Aiyar: Sir, I beg to move the following amendment:

Omit the words "and below twenty-one,"

I may also submit that Section 3 and Section 4 may be made into one section by abolishing the words "and below twenty-one." Then it will read like this.

> "Whoever, being above eighteen years of age contracts a child marriage shall be punishable with simple imprisonment which may extend to one month or with fine which may extend to Rs. 1,000, or with both."

Mr. N. Krishna Aiyar: Sir, I have sent up a similar amendment and I am glad to support the amendment moved by Mr. Ramakrishna Aiyar. I think that there is no necessity to make any distinction between persons who are above eighteen and below twenty-one and persons who are above twenty-one. Therefore I support the amendment for the deletion of the words "and below twenty-one" in clause 3 and the deletion of Clause 4.

Mr. Kottur Kunjukrishna Pillai: Sir, I oppose the amendment. I am glad to find that the honourable members who were opposing this measure on principle are now showing themselves in a helpful mood. They are now attempting to improve the draftsmanship and beauty of the legislation. I am very glad to see that their mind is changed. We should all be thankful to them. I do not think there is any great harm in adopting the amendment proposed. But I am of the opinion that there is no imperative need to have this change except it be to delay the passing of the Bill. I think it would be well to keep the clause as it is as it would cause further delay for this measure to become law. Even if any artistic defect exists I think it can be tolerated. I must once more thank the honourable members who brought forward this amendment who have thereby exhibited their change from an obstructive to a helpful attitude.

The motion was put and lost.

Mr. N. Krishna Aiyar: Sir, I demand a poll.

A poll was taken and the House divided as follows:

Ayes—4.

1. Mr. N. Krishna Aiyar	3. Mr. M. K. Ananthasiva Aiyar
2. „ T. V. Ramakrishna Aiyar	4. „ G. Narayana Aiyar

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Noes—10.

1. Mr. M. Govindan	7. Mr. T. W. U. Park
2. ,, V. Sankara Menon	8. ,, Kochikal Balakrishnan Tampi
3. Mrs. Abernam Gnanasikhamony	
4. Mr. Kallur Narayana Pillai	9. ,, K.K. Kuruvilla
5. ,, K. M. Kesavan	10. ,, T. K. Kittan
6. ,, Kottur Kunjukrishna Pillai	

NEUTRALS—11.

1. Mr. D. Gainneos	7. Sahib Bahadur Abdul Tayeb Shaikh Kaderbhoy
2. ,, Puthupally S. Krishna Pillai	8. Mr. P. I. Simon
3. ,, P. J. Thomas	9. Sahib Bahadur Haji Hassan Yacoob Sait
3. Miss Thressia Kora	
5. Mr. Thomas Chandy Mukkadan	10. Mr. V. S. Arumukhom Pillai
6. , E. K. Kuripe	11. ,, T. Krishna Pillai

The amendment was declared lost.

Mr. N. Krishna Aiyar : Sir, I beg to move the following amendment:

In clause 3, delete the words "one thousand" and substitute "five hundred".

Of course if any offence is committed no one will object to any penalty being imposed on the offenders. But the suggestion underlying this amendment is that it should not be unnecessarily heavy and it must be more reasonable. Sir, I submit that instead of imposing a penalty of Rs. 1000 a lesser amount of Rs. 500 may be fixed.

Mr. T. V. Ramakrishna Aiyar : I second the motion, Sir.

Mr. G. Narayana Aiyar : I think that the amendment is really necessary.

Mr. Kottur Kunjukrishna Pillai : Sir, I oppose the amendment. The honourable member of the amendment conceded that there is necessity for some punishment being imposed for the infringement of law. The only question is whether the punishment is sufficiently deterrent by awarding a fine of Rs. 1,000 or Rs. 500 as the case may be. It is stated that Rs. 500 is fairer. I do not think why Rs. 1000 is not fair enough. I think that we should not accept the amendment unless there is overwhelming reason for doing so. And I am of the opinion that even Rs. 1000 is not sufficiently deterrent in the case of rich families. I think that this provision need not be interferred with at this stage. The House has only to look into the fact whether the punishment has to be sufficiently deterrent or not. Therefore, I hope, Sir, that the honourable members will not support the amendment for making the punishment lighter.

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Mr. Thomas Chandy Mukkadan: ഞാൻ ഈ ഭേഗതിയെ അനുകൂലിക്കുന്നു. സാധാരണയായി മനസ്സറിഞ്ഞുകൊണ്ടു ഈ നിയമത്തെ ലംഘിക്കുന്ന കുബേരന്മാക്ക് ഈ ശിക്ഷ തരക്കേടില്ല. എന്നാൽ വിദ്യാഭ്യാസമുള്ളവരുടേയൊ ധനമുള്ളവരുടേയൊ ഇടയിലല്ലാ ഇത്തരം കല്യാണങ്ങൾ നടക്കുന്നതു്. പ്രായംചെന്നവരെ കല്യാണംകഴിക്കാൻ വിഷമമുള്ളതുകൊണ്ടും ധനപരമായ വൈഷമ്യങ്ങൾ ഉള്ളതുകൊണ്ടും, അറിവില്ലായ്മകൊണ്ടും സാമാന്യജനങ്ങൾ ആചരിക്കും ഈ നിയമത്തെ ലംഘിക്കുന്നതു്. അതുകൊണ്ടു ഈ നിയമത്തിന്റെ ആദ്ധ്യത്തിലെങ്കിലും പിഴശിക്ഷ ലഘൂകരിക്കേണ്ടതാണ്.

Chairman (*Mr. James Fletcher*) : The maximum alone is given here and not the minimum. The Courts may decide the amount of fine to be imposed. The Judge can pass any order.

Mr. Thomas Chandy Mukkadan: യാതൊരു കാരണവശാലും പിഴസംഖ്യ ൫൦൦ രൂപയിൽ കവിയാൻ പാടില്ലെന്ന മനസ്സിലാക്കിക്കൊണ്ടാണു് ഞാൻ ഈ ഭേഭഗതിയെ പിൻതാങ്ങുന്നതു്.

The amendment was put to vote and lost.

Mr. N. Krishna Aiyar : I demand a poll Sir.

A poll was taken and the House divided as follows :—

AYES—5.

1. Mr. Thomas Chandy Mukkadan.	4. Mr. T. V. Ramakrishna Aiyar.
2. ,, E. K. Kuripe.	5. ,, G. Narayana Aiyar.
3. ,, N. Krishna Aiyar.	

NOES—8.

1. Mr. M. Govindan.	5. Mr. Kottur Kunjukrishna Pillai.
2. ,, Srimathy R Renganayaki.	6. ,, P. R. Godavarma Raja.
3. Mrs. Abernam Gnanasikameni.	7. ,, T. W. U. Park.
4. Mr. K. M. Kesavan	8. ,, Kochikal P. Balakrishnan Tampi.

NEUTRALS—9.

1. Mr. Puthupally S. Krishna Pillai.	6. Mr. M. K. Ananthasiva Aiyar.
2. ,, D. Gainneos.	7. ,, V. S. Arumukham Pillai.
3. ,, P. J. Thomas.	8. ,, Abdul Tayeh Shaik Kaderbhoy.
4. ,, T. Mahomed Ismail.	9. ,, T. Krishna Pillai.
5. ,, T. K. Kittan.	

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5 members voted for the amendment, 8 against and 9 remained neutral. The amendment was declared lost.

The question that Clause 3 stands part of the Bill was put to vote and carried.

Clause 3 was added to the Bill.

Clause 4.

Mr. N. Krishna Aiyar: In Clause 4, delete the portion following "punishable with" and substitute "fine which may extend to one thousand rupees."

Clause 4 reads thus: "Whoever being above twenty-one years of age, contracts a child marriage shall be punishable with simple imprisonment which may extend to one month or with fine which may extend to one thousand rupees or with both."

In the British Indian enactment of which this is a copy there is a provision which says, notwithstanding anything contained in the Act the court shall not impose any punishment with imprisonment in lieu of fine. That shows that the British Indian Legislature has realised that it is very hard to impose imprisonment either with or without fine.

Mr. Puthupally S. Krishna Pillai: I rise to a point of order Sir. The honourable member's amendment if accepted would result in the enactment of a clause exactly similar to clause 3. That is, if a person who is below 21 years, contracts a child marriage he shall be punishable with a fine which may extend to one thousand rupees and if a person who is above 21 years, contracts a child marriage he is also liable to a fine of Rs. 1,000. Unless there is a purpose gained, unless there is a substantial purpose gained by a new clause, no new clause would be allowed to stand. It would be rather out of tune with the prestige which this House would be careful to maintain in all such cases.

Mr. N. Krishna Aiyar: What I would point out is the imposition of imprisonment with or without fine would be too much and too hard. The imposition of a penalty may be satisfied by a fine which may extend to Rs. 1,000 which is already fixed there. I think that would be sufficient. To quote the words of Mr. S. Satyamurthi, it is really "intolerable" if not atrocious. It is in that sense I say that a penalty for the violation of the law may be at least limited to a fine not exceeding Rs. 1,000. Even a fine of Rs. 1,000 is certainly a heavy punishment.

Mr. Puthupally S. Krishna Pillai: What is the difference between this clause and the previous clause then. Those below 21 are liable to a fine of Rs. 1,000 and those above are also liable to a fine of Rs. 1,000. A distinction should be maintained

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between those below 21 and those above 21. What is the distinction here ? That principle has to be accepted. If my friend has stated one week's imprisonment, I would have understood, or if he has stated imprisonment till the rising of the court, I would have understood, or even a fine which may extend to Rs. 2,000, I would have understood. This I would submit is against the principle.

Mr. Kottur Kunjukrishna Pillai : I want a ruling from the Chair as to whether the amendment is in order or not, in as much as it would be seen that the amendment purports to repeat the same clause again. The House decided that there should be a distinction with regard to offences committed by persons between the ages of 18 and 21 and by persons who are above 21. I want to know whether the member is entitled to ask the House to vote again with regard to a matter which has been already decided by the House.

Mr. T. V. Ramakrishna Aiyar : I question the correctness of Mr. Kunjukrishna Pillai's statement.

Mr. Kottur Kunjukrishna Pillai : It is a point of order, Sir. The Honourable member is not entitled to say anything.

Chairman (*Mr. James Fletcher*) : If the mover presses the amendment, I will have to give my ruling. Does the Honourable member press the amendment ?

Mr. N. Krishna Aiyar : I do not press the amendment, Sir.

The question that clause 4 stands part of the Bill was put to vote and carried:

Clause 4 was added to the Bill.

Clause 5.

Mr. T. V. Ramakrishna Aiyar : Sir, I move the following amendment.

In Clause 5, omit the words "simple imprisonment which may extend to one month, or with" and "or with both".

This relates not only to persons who actually take part in the conduct of the marriage but also to others. Even outsiders will come under this clause. It is very hard to punish them with imprisonment. After all this is an offence against social laws and I do not see any reason why inside and outside people should be made liable for imprisonment. So I beg to move the amendment.

Mr. N. Krishna Aiyar : I support the amendment and wish to say that the distinction drawn by the Legal Remembrancer does not apply to this case. At least, other persons who are likely to take part or be present may be exempted from the punishment of imprisonment.

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Mr. G. Narayana Aiyar: Sir, I support the amendment. To penalise others simply because they take part in the marriage is rather very hard especially in a social matter. The onus of proving that it is not a child marriage is shifted to the accused which is really very hard and opposed to all fundamental principles. Innocence that is generally presumed is also absent here. It is very hard as it stands. So I support the amendment.

Mr. Kochikal P. Balakrishnan Tampi: Sir, I oppose the amendment and that for very good reasons. Something may be said for the young man or the young woman who gets married. But the neighbour or the priest who consciously and deliberately partakes in the marriage rites should be certainly punished more because he by his participation abets the offence and by that participation encourages the repetition of such offence. Therefore more than the actual parties—it is these people, the village headman, the priest, the Vadyar, the elderly man, the retired gentleman or the social leader, who come to the hall and encourage the marriage. They must be punished. Whipping is supposed to be rather cruel and barbarous and therefore I do not advocate that punishment. Any form of punishment is justifiable in the case of those who not merely to satisfy their gastronomical impulse, come and take part and thus directly abet this offence against society.

As regards the knowledge or otherwise there is the proviso which says: "unless there is reason to believe that the marriage is not a child marriage." But people who come from a distant place and ignorantly partake should not be penalised.

The onus of proof is on the prosecution. In the case of plea of good-faith the onus is on the accused to prove that he comes under the exception.

The amendment was put to vote and lost.

Mr. N. Krishna Aiyar:

In Clause 5 line 1, after the words 'child marriage' add the words 'knowing or believing that it is a child marriage' and delete the rest of the clause beginning with 'unless..... marriage'.

The prosecution has to establish the guilt of the accused. In this case the onus of proof is cast upon the accused. It is the prosecution that has to prove the *mensrea* of the accused, that knowledge or intent of committing a crime. But according to the clause as it stands it is the accused that has to prove that he had clear reason to believe that the marriage was not a child marriage. On the other hand, the general principles of criminal law would certainly dictate that it is for the prosecution to establish that the accused performed or conducted the marriage with the knowledge or belief that it was a child marriage. It is only on the general and fundamental principles of the criminal law that I am moving this amendment.

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Mr. T. V. Ramakrishna Aiyar: I second the motion.

Mr. G. Narayana Aiyar: After all what is the necessity for such a legislation. It does not affect the character or merit of the people who take part in it or who attend the marriage based on religious beliefs. To ask such people to prove their innocence is too much. Therefore the amendment has to be allowed and I support it.

The amendment was put to vote and declared lost.

Mr. N. Krishna Aiyar: I demand a poll, Sir.

A poll was taken and the House divided as follows :—

AYES 4.

1.	Mr. N. Krishna Aiyar.	3.	Mr. G. Narayana Aiyar.
2.	,, T. V. Ramakrishna Aiyar.	4.	,, M. K. Ananthasiva Aiyar.

NOES 8.

1.	Mr. M. Govindan.	5.	Mr. Kottoor Kunjukrishna Pillai.
2.	Srimathi R. Ranganayaki.	6.	,, Kochikal P. Balakrishnan Tampi.
3.	Mrs. Abernam Gnanasikhamony.	7.	,, A. Easwara Pillai.
4.	Mr. K. M. Kesavan.	8.	,, T. W. U. Park.

NEUTRALS 10.

1.	Mr. D. Gainneos.	7.	Mr. Thomas Chandy Mukkadan
2.	,, P. S. Kuppuswami Aiyar	8.	,, V. S. Arumukhom Pillai.
3.	,, P. J. Thomas.	9.	,, T. Krishna Pillai.
4.	,, T. Mahomed Ismail	10.	,, Pathupally S. Krishna Pillai.
5.	,, E. K. Kuripe.		
6.	,, T. K. Kitten.		

The amendment was lost.

Mr. N. Krishna Aiyar:

"in Clause 5, line 3 delete the words 'one thousand' and substitute the words 'five hundred'."

It deals with the question of punishment. I want to make it light. The same arguments I advanced with regard to Clause 3 hold good for this amendment also.

Mr. G. Narayana Aiyar: I second the amendment.

The amendment was put to vote and lost.

Chairman (*Mr. James Fletcher*): The honourable members are expected to speak in such a pitch as to be heard by all.

The question that Clause 5 do stand part of the Bill was put to vote and carried.

Clause 5 was added to the Bill.

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Clause 6.

Mr. N. Krishna Aiyar:

"Omit clause 6 and renumber subsequent clauses accordingly."

Accordingly to the clause while a minor contracts a child marriage, any person having charge of the minor, whether as parent or guardian or in any other capacity who promotes the marriage or permits it to be solemnised, that person is liable for punishment. My submission is that this Bill makes life very precarious in the State because in the prior sections we find that not only persons who contract the marriage but also who perform, conduct and attend the marriage, all will be liable to punishment. Here we go to a case where a minor contracts marriage and the vicarious liability is imposed upon the person who is supposed to have the charge over the minor. It is not only the parent but any person is liable to punishment. Perhaps the boy may be a student in a hostel, and the warden of the hostel may be taken to task. After all he may not know that the marriage was conducted at all. Even in such cases the burden of proof has been shifted on to him as sub-clause (ii) says "that for the purpose of this section it is presumed" that he was negligent, and it is not necessary that he should conduct and take part in it. Clause 6 reads thus "who does any act to promote the marriage or permits it to be solemnised or negligently fails to prevent it from being solemnised etc." It is imposing liability on a person for acts done even without his knowledge as is found in Clause 5. Even when he is actually innocent the burden of proof is cast upon him to show that he was not involved in it. That is going too far. It makes life very unsafe. Those who are guilty are those who take part in performing the marriage. It need not go or extend further. So the clause may be deleted.

Mr. T. V. Ramakrishna Aiyar: I second the amendment.

Mr. G. Narayana Aiyar: Now it is provided by clause 6 of the Bill that the parent or guardian or anybody or any person who may have anything to do with the minor is liable to punishment. In certain cases it may not be possible for them to prevent the marriage organised. In these days when marriages are arranged between the boy and the girl without any regard for the wishes of the parents or guardians, to punish the legal custodians for no fault of their is illogical. The term "negligently fails" is not defined in the Bill.

Mr. Kottur Kunjukrishna Pillai: The member may be asked to speak louder. He is quite inaudible.

Mr. Puthupalli S. Krishna Pillai: The member may e asked to raise his voice as everything has to be recorded here.

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Chairman (*Mr. James Fletcher*): The honourable member will please raise his voice.

Mr. G. Narayana Aiyar: I will try to be as loud as possible.

Now-a-days we hear of love letters being exchanged between school-going girls who have attained puberty and their lovers and agreements for marriages being entered into without the consent or knowledge of the parents or guardians. Advice or protests are being disregarded. Under such circumstances what is the parent or guardian to do to prevent the marriage and possible conviction?

I support the amendment. Naturally enough the girl who has attained puberty may have a voice in the marriage so far as the selection of the bridegroom is concerned She may not yield to the wishes of her parents in certain instances. Suppose the girl goes to the Registrar's office and has the marriage registered. What is the parent to do, when the marriage is contracted without his knowledge? What the section says is—

> "**.....who does any act to promote the marriage or permits it to be solemnised, or negligently fails to prevent it from being solemnised.....**"

What is the amount of care or control which the parent is to bestow? How can he prevent the marriage if the parties to the marriage are not in his custody? It is possible that the marriage is conducted outside the place where the parents live. To charge the parent in such a case is to be very very hard on him. Not only is the parent not allowed to have his own way but he is sought to be charged and punished for the conduct of his child. That I submit is very hard. It is not sound also. Therefore I support the amendment.

Mr. Kochikal P. Balakrishnan Tampi: Sir, I oppose the amendment for this reason. The parents are certainly far more responsible than those who come in as guests.

Mr. M. K. Ananthasiva Aiyar: Is it not a fact that sons of some Government servants took part in State Congress activities?

Mr. Kochikal P. Balakrishnan Tampi: Sir, I think it is an irrelevant interruption. I think there were public spirited sons of Government servants who stood for responsible Government in the State. This Government themselves will appreciate the right attitude adopted by them. Sir, I decry any attempt to make political capital of some movement which for some time the Government chose not to encourage. I cannot countenance at all those who hang after Government, hankering after registry of large acres of land on the ground that they were at one time against the State Congress. I resent the insinuation against the political body, by

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[Mr. Kochikal P. Balakrishnan Tampi]

my friend on my left. That is quite irrelevant to the consideration of this Bill. There is no hush-hush about the State Congress. It is a very responsible body of people who want responsible Government in the State perfectly legitimately. There might be differences of opinion about its activities. I for one have always considered that their programme.....

Chairman (*Mr. James Fletcher*) : It is not relevant to the consideration of the Bill before the House.

Mr. Kochikal P. Balakrishnan Tampi: I am glad I got an occasion to speak about it. I do not wish to talk more about the politics of people who change it on this side of the ghats.

Now, speaking about the Bill. I am sure, Sir, that there is no such apprehension that parents will be within the meshes of law, because in this section advisedly the onus of proof is on the prosecution ; and the prosecution must prove that the guardian or the parents in question were negligent. Indirectly it emphasises parental responsibility, and to that extent it is certainly calculated for the welfare of minors in general. This is not a novel provision. There are pieces of legislation, especially regarding public health, in which there is vicarious liability placed upon parents. There is nothing novel or startling in the proposition that parents should be punished unless they exercise proper and legitimate parental control over the activities of their children.

The amendment was put to vote and declared lost.

Mr. N. Krishna Aiyar : I move that in clause 6 (i), line (3), between the words, "who" and "does", the words "knowing or believing that it is a child marriage" be inserted. With the amendment the section will read thus :

> "Where a minor contracts a child marriage, any person having charge of the minor whether as a parent or guardian or in any other capacity, lawful or unlawful, who, *knowing or believing that it is a child marriage*, does any act to promote the marriage or permits it to be solemnised....."

This is more or less on the same lines as my amendment to clause 5 and the same arguments apply to this also. I do not wish to repeat them. I therefore commend this amendment for the acceptance of the House.

Mr. G. Narayana Aiyar : I second it.

The amendment was put to vote and declared lost.

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Mr. N. Krishna Aiyar: I move that in clause 6 (i) line 4, the words "or negligently fails to prevent it from being solemnised" be omitted, since the remaining portion of the section will be quite sufficient to bring the offender to book. The burden should not be cast upon one who is supposed to be negligent, that is, for not doing a thing which he may not be actually in the know of, and vicarious responsibility should not be imposed on him. The arguments that I addressed generally about the clause will apply particularly about this portion

Mr. G. Narayana Aiyar: I second it.

The amendment was put to vote and declared lost.

Mr. N. Krishna Aiyar: I move that in clause 6 (i) the rest of the clause after "punished with" be omitted and "fine which may extend to five hundred rupees" be substituted. This amendment is also for the reduction of the fine. The object of my amendment is to remove the penalty of imprisonment and to impose only a fine. The argument which I submitted with regard to amendments of a similar nature apply to this also.

Mr.G. Narayana Aiyar: I second it.

The amendment was put to vote and declared lost.

Mr. N. Krishna Aiyar: I move that sub-clause (ii) of clause 6 be omitted. This amendment is very material for the purpose of the burden of proof. In all fairness it will be the duty of the prosecution to establish that the parent or guardian was negligent. Here negligence is only an act of omission and not of commission. Even for acts of commission the criminal law lays the burden of proof on the prosecution and presumes the accused to be innocent. Here it is only an act of omission and the clause imposes an undue burden on the parent or guardian. This is doubly unfair and it is too great a hardship which the legislature should avoid. I therefore commend this amendment to the House for its acceptance, especially as it does not affect the fundamentals of the principles underlying the Bill. The burden of proof is more a matter underlying the principles of criminal law, especially since a penalty is imposed here as in the penal sections of the criminal law. This amendment at least is worthy of consideration and it may be passed by the House.

Mr. T. V. Ramakrishna Aiyar: I second it.

Mr. Kochikal P. Balakrishnan Tampi: Sir, in opposing this amendment I merely want to express my admiration for the honourable Casabiancas who at this late hour still stick to the burning decks of their amendments.

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[Mr. Kochikal P. Balakrishnan Tampi]

The amendment was put to vote and declared lost.

The question that clause 6 do stand part of the Bill was put and carried.

Clause 6 was added to the Bill.

Clause 7.

The question that clause 7 do stand part of the Bill was put and carried.

Clause 7 was added to the Bill.

Chairman (*Mr. James Fletcher*): The House will now adjourn and meet again at 11 O'clock on Tuesday the 8th April 1941

The House adjourned at 4-30 P. M.

Trivandrum,
June 1941.

A. GUNAMONY,
Secretary to the Sri Chitra State Council.

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